OFFICIAL PROCEEDINGS

OF THE

CONSTITUTIONAL CONVENTION

OF THE

STATE OF ALABAMA

May 21st, 1901, To September 3rd, 1901.

JOHN B. KNOX, Esq., President.
FRANK N. JULIAN, Esq., Secretary.
PAT McGAULY, Esq., Official Stenographer.

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FIRST DAY

MONTGOMERY, ALA.,
Tuesday, May 21, 1901.

Hon. Thomas N. McClellan, Chief Justice of the Supreme Court of Alabama, as directed by the Enabling Act, called the Convention to order promptly at the noon hour, and appointed the Secretary of State, Hon. Robert P. McDavid, to act as Secretary of the Temporary organization.

Hon. Thomas N. McClellan—This is the time and place for the assembling of delegates who have been elected by the people of Alabama to revise and amend the Constitution. The Enabling Statute confers the honor, and imposes the duty on the Chief Justice of the State of Alabama to initiate the organization of this Constitutional Convention. The Act provides that the Chief Justice of the Supreme Court, or, during his absence, one of the Associate Justices of the Supreme Court, shall call the Convention to order and preside until the temporary officers are elected. It is in the discharge of that duty that I am here. Having in mind that possibly all the delegates would not have their certificate of election, I have the certificate of the Secretary of State to the roll of delegates elected by the people to this Constitutional Convention under the Great Seal of the State.

I will call the names upon this roll, and as the names are called, the delegates will please come forward and enroll themselves on the book, which has been provided by the Secretary of State.

Upon the roll being called, the following delegates came forward and subscribed their names:

Almon, D. C.
Altman, W. A.
Ashcraft, John T.
Banks, William H.
Barefield, J. H.
Bartlett, W. H.
Beavers, J. Robert.
Beddow, C. P.
Bethune, D. S.
Blackwell, Samuel
Boone, B. Boykin,
Brooks, Leslie E.
Browne, Cecil,
Bulger, Thomas L.
Burnett, John D.
Burns, John F.
Byars, John A.
Cardon, H. W.
Carmichael, A. H.
Carmichael, M. S.
Carnathan, G. H.
Case, D. C.
Chapman, Reuben,
Cobb, James E.
Cofer, W. T. L.
Coleman, E. W.
Coleman, Thomas W.
Cornwell, Thomas J.
Craig, B. H.
Cunningham, R. M.
Davis, Hubert T.
Davis, John A.
Dent, S. H.
deGraffenreid, Edward W.
Duke, J. B.
Eley, B. T.
Eyster, John C.
Espy, T. M.
Ferguson, Charles W.
Fitts, William C.
Fletcher, A. S.
Foshee, J. M.
Foster, J. M.
Freeman, Newman H.
Gilmore, John A.
Glover, W. F.
Graham, Edward A.
Graham, Jos. B.
Grant, L. W.
Grayson, John W.
Greer, Charles H.
Greer, L. F.
Haley, C. L.
Handley, William A.
Harrison, George P.
Heflin, John T.
Heflin, J. Thomas,
Henderson, J. C.
Henson, Evans,
Hodges, P. W.
Hood, O. R.
Howell, W. P.
Howze, A. C.
Inge, W. B.
Jackson, E. C.
Jenkins, Samuel C.
Jones, John C.
Jones, James McLean,
Jones, Richard C.
Jones, Thomas G.
King, John T.
Kirk, James T.
Kirkland, W. W.
Knight, Wm. N.
Knox, John B.
Kyle, R. B.
Ledbetter, E. W.
Leigh, Norville, R., Jr.
Locklin, Lawrence W.
Lomax, Tennent,
Long, J. Lee,
Long, T. L.
Lowe, Robert J.
Lowe, W. T.
Macdonald, Gordon,
McMillan, Lee,
McMillan, B. F.
Malone, George H.
Martin, J. T.
Maxwell, J. C.
Merrill, A. H.
Miller, Charles H.
Miller, Jos. N.
Moody, Milo,
Morrissette, E. R.
Mulkey, W. O.
Murphree, Joel D.
Nesmith, C. C.
Norman, J. D.
Norwood, Jos.
Oates, William C.
O'Neal, Emmett,
O'Neill, John W.
Opp, Henry,
O'Rear, Rufus A.
Palmer, Dabney,
Parker, George H.
Parker, John H.
Pearce, James P.
Pettus, Erle,
Phillips, E. A.
Pillans, Harry,
Pitts, P. H.
Porter, John H.
Proctor, John F.
Reese, Henry Fontaine,
Renfro, N. P.
Reynolds, Lewis H.
Reynolds, R. I.
Robinson, J. J.
Rogers, C. J., Sr.
Rogers, John A.
Samford, Wm. H.
Sanders, W. T.
Sanford, John W. A.
Searcy, Geo. A.
Selheimer, Henry C.
Sentell, J. O.
Sloan, J. B.
Smith, Gregory L.
Smith, MacA.
Smith, Morgan M.
Sollie, Michael,
Sorrell, Geo. A.
Spears, N. B.
Spragins, Robert E.
Stewart, J. H.
Studdard, S. L.
Tayloe, W. H.
Thompson, J. F.
Vaughan, Watkins M.
Waddell, Boswell, deG.
Walker, Richard W.
Watts, Thomas H.

Weakley, John B.	Willett, E. D.	Williams, Jere N.
Weatherly, James,	Williams, A. E.	Wilson, E. P.
White, Frank S.	Williams, Gesnard,	Wilson, Massey,
Whiteside, W. W.	Winn, James J.	

CHIEF JUSTICE McCLELLAN—The whole number of delegates, one hundred and fifty-five, having appeared and signed the roll. I will now administer the oath of office. The delegates will please rise to their feet.

Do you, and each of you, solemnly swear that you will support the Constitution of the United States, and that you will honestly and faithfully perform the duties which are now to devolve on you as delegates of this Convention, so help you God.

MR. HARRISON—In view of the fact that this body is composed largely of Democrats, and that the caucus of the Democratic party desires to convene this afternoon, to determine the officers of this Convention, I move we do now adjourn until 11 o'clock tomorrow morning.

The motion was adopted, and thereupon the Convention adjourned.

SECOND DAY

MONTGOMERY, ALA.,
Wednesday, May 22, 1901.

At 11 o'clock a. m. the Convention was called to order by Chief Justice McClellan in the following words: "Gentlemen, please be seated. The proceedings will be opened with prayer by the Rev. Dr. Patterson."

Dr. Patterson said: "Oh, Lord, God, our Heavenly Father; Thou who art the Maker of heaven and earth, and who doest Thy will among the armies of heaven and amongst the inhabitants of the earth, unto Thee we come this morning with prayer to Thee for guidance, for strength and for wisdom and for blessing. We acknowledge that Thou art King and Lord; that in Thy hands are the destinies of nations, and that Thou takest into Thy care the thoughts of the people; and we praise and bless Thee that Thou has assured us Thy interest and care over us is constant, and that Thou art more willing that souls should be blessed than we are willing even to receive blessings at Thy hands. We pray Thee, Heavenly Father, that Thou wilt cause Thy face to shine upon these Thy servants, who are met together from different parts of this State to engage in this undertaking which is before them, and we ask that Thou will give to them wisdom; that Thou will give to them clearness of mind, and especially that Thou

will give to them a sense of the responsibility resting upon them, and as they day by day meet for consultation and deliberation, may their minds and hearts, be so guided and controlled by Thy Holy Spirit as that the result of their labors will be of benefit to all the inhabitants and citizens of this State. We pray that Thou wilt restrain them from any unwise proceedings; that Thou wilt uphold them in all undertakings which are for the interest of the people, and that Thou wilt sustain all of their efforts to Thy name's honor and glory, and to Thee we shall give the praise, world without end . Amen."

The roll was here called.

CHIEF JUSTICE McCLELLAN—One hundred and fifty delegates have answered to their names. The business before the Convention this morning is the election of a temporary or permanent president as the Convention may desire.

MR. COLEMAN (Greene)—Mr. Chairman, as suggested by the Chair, I move that we proceed to a permanent organization at once, by the election of a permanent President of the Constitutional Convention of the State of Alabama; and I would put in nomination the name of the Honorable John B. Knox of Calhoun County.

Mr. Chairman, as there seems to be no opposition, I would move further that he be elected by acclamation, if I can secure a second.

MR. SANFORD (Montgomery)—I second the motion, Mr. Chairman.

CHIEF JUSTICE McCLELLAN—It is moved and seconded that the Convention proceed to the election of a permanent President, Mr. John B. Knox being put in nomination, the further motion is made that he be elected by acclamation.

The question was put and the Hon. John B. Knox was unanimously elected President of the Constitutional Convention.

THOMAS W. COLEMAN of Greene—Mr. Chairman, I move the appointment of a committee of three to notify Mr. Knox of his election.

The motion being duly seconded, was put and carried.

The Chairman appointed Hon. Thomas W. Coleman of Greene, Hon. William C. Oates of Montgomery, and Hon. Tennent Lomax of Montgomery to notify Mr. Knox of his election.

The committee escorted the newly-elected President to the Chair.

CHIEF JUSTICE McCLELLAN—Gentlemen of the Convention, I have the honor and pleasure of presenting to you the gen-

tleman whom you have elected to preside over your deliberations, the Honorable John B. Knox of Calhoun County.

MR. KNOX—Gentlemen of the Convention:

I thank you for the high honor you have conferred in electing me to preside over the deliberations of this Convention. Viewed from the standpoint of my profession, to which, up to this moment, my life's work has been devoted, it is a great honor, indeed; for I know of no higher honor that can be conferred upon a lawyer than to be made President of the Constitutional Convention, which represents the sovereignty of his people; and numbers among its delegates, in large part, the intellect and talent of the State—those who have in the past, and will in the future exert a potent influence in shaping and directing the affairs of the State.

IMPORTANCE OF THE ISSUE

In my judgment, the people of Alabama have been called upon to face no more important situation than now confronts us, unless it be when they, in 1861, stirred by the momentous issue of impending conflict between the North and the South, were forced to decide whether they would remain in or withdraw from the Union.

Then, as now, the negro was the prominent factor in the issue.

The Southern people, with this grave problem of the races to deal with, are face to face with a new epoch in Constitution-making, the difficulties of which are great, but which, if solved wisely, may bring rest and peace and happiness. If otherwise, it may leave us and our posterity continuously involved in race conflict, or what may be worse, subjected permanently to the baneful influences of the political conditions now prevailing in the State.

So long as the negro remains in insignificant minority, and votes the Republican ticket, our friends in the North tolerate him with complacency, but there is not a Northern State, and I might go further and say, there is not an intelligent white man in the North, not gangrened by sectional prejudice and hatred of the South who would consent for a single day to submit to negro rule.

If the negroes of the South should move in such numbers to the State of Massachusetts, or any other Northern State, as would enable them to elect the officers, levy the taxes, and control the government and policy of that State, I doubt not they would be met, in spirit, as the negro laborers from the South were met at the State line of Illinois, with bayonets, led by a Republican Governor, and firmly but emphatically informed that no quarter would be shown them in that territory.

One has studied the history of recent events to very little purpose who has failed to discover that race prejudice exists at the

North in as pronounced a form as at the South, and that the question of negro domination, when brought home, will arouse the same opposition in either section.

And what is it that we want to do? Why it is within the limits imposed by the Federal Constitution, to establish white supremacy in this State.

This is our problem, and we should be permitted to deal with it, unobstructed by outside influences, with a sense of our responsibilities as citizens and our duty to posterity.

NORTHERN INTERFERENCE

Some of our Northern friends have ever exhibited an unwonted interest in our affairs. It was this interference on their part that provoked the most tremendous conflict of modern times; and there are not a few philanthopists in that section who are still uneasy lest we be permitted to govern ourselves and allowed to live up to the privileges of a free and sovereign people! Some of the same, in like missionary spirit, are greatly concerned about the condition of the Chinaman in China, but we do not find them appealing to Congress, or interfering with the local policy of California, a Northern State, for the protection of the Chinaman who is a resident there, or making any attempt to interfere with the right of that people to govern themselves, and to provide for a pure administration of government and for the protection of property.

If it is the negro who is the object of their solicitude, it would seem—not to speak of Africa itself—they would find an inviting field in Cuba and in our new acquisitions of Hawaii, Porto Rico and the Phillippines. The disinclination they exhibit to enter this field only serves to confirm the well-grounded conviction in this section, that the point of their interference is not so much to elevate the black man as it is to humiliate the white man with whom they have been in antagonism.

But we may congratulate ourselves that this sectional feeling which has served to impair the harmony of our common country, and to limit the power and retard the development of the greatest government on earth, is fast yielding to reason.

While we may and do differ from him politically, there is not an enlightened and patriotic Southern man who fails to see that much of this result is due to the honorable and statesman-like policy of the present Chief Executive of these United States, who, by the consideration he has shown our section in many ways, notably in the Spanish-American war, and by refusing to lend his approval to any movement looking to the reduction of our representation in Congress or in the Electoral College, has shown himself capable of being President of the whole country and not merely one section of it and has been enabled to present the spectacle of a re-united country, and contributed much to place our government in the very front rank with the nations of the world.

THE ATTITUDE OF THE SOUTHERN MAN TOWARDS THE NEGRO

The Southern man knows the negro, and the negro knows him. The only conflict which has, or is ever likely to arise, springs from the effort of ill-advised friends in the North to confer upon him, without previous training or preparation, places of power and responsibility, for which he is wholly unfitted, either by capacity or experience.

When it comes, however, to dealing with the negro, in domestic service, or in a business way, the Southerner is infinitely more indulgent to him than his Northern compatriot.

There came to us a well authenticated story from Kentucky, of an old darkey, who, after the war, influenced by the delusion that the only friends the negro had were in the North, wandered up into Illinois, hoping to find an easy fortune. But here he soon found that while the people had much to say to him about the evils of slavery, and the destiny of his race, every one with whom he did business held him to a strict accountability. Trained, as he was, to the slow movement of the mule in the Southern cornfield and the cotton patch, he could not handle the complicated machinery, or keep pace with the quicker methods of farming in the West, and so he was soon cast adrift. When he asked for help he was told to go to work, and so he wandered, foot-sore and weary, back through Indiana and Ohio until he reached again the old Southern plantation in Kentucky. Finding the planter comfortably seated upon his veranda, the old darkey approached, hat in hand, and asked for something to eat.

"Why, you damned black rascal, what are you stopping here for? Go into the kitchen and tell the cook to give you something to eat."

"Before God, Master," the old darkey said, grinning from ear to ear, "them's the sweetest words I'se heard since I left old Dixie."

The old man was home at last. He was among people who understood him, and whom he understood.

WHITE SUPREMACY BY LAW

But if we would have white supremacy, we must establish it by law—not by force or fraud. If you teach your boy that it is right to buy a vote, it is an easy step for him to learn to use money to bribe or corrupt officials or trustees of any class. If you teach your boy that it is right to steal votes, it is an easy step for him to believe that it is right to steal whatever he may need or greatly desire. The results of such an influence will enter every branch of society, it will reach your bank cashiers, and affect positions of trust in every department; it will ultimately enter your courts, and affect the administrations of justice.

I submit it to the intelligent judgment of this Convention that there is no higher duty resting upon us, as citizens, and as delegates, than that which requires us to embody in the fundamental law such provisions as will enable us to protect the sanctity of the ballot in every portion of the State.

The justification for whatever manipulation of the ballot that has occurred in this State has been the menace of negro domination. After the war, by force of Federal bayonets, the negro was placed in control of every branch of our Government. Inspired and aided by unscrupulous white men, he wasted money, created debts, increased taxes until it threatened to amount to confiscation of our property. While in power, and within a few years, he increased our State debt from a nominal figure to nearly thirty million dollars. The right of revolution is always left to every people. Being prostrated by the effects of war, and unable to take up arms in their own defense, in some portions of this State, white men, greatly in the minority, it is said, resorted to strategem—used their greater intellect to overcome the greater number of their black opponents. If so such a course might be warranted when considered as the right of revolution, and as an act of necessity for self-preservation. But a people cannot always live in a state of revolution. The time comes, when, if they would be free, happy and contented people, they must return to a Constitutional form of government, where law and order prevail, and where every citizen stands ready to stake his life and his honor to maintain it.

WHAT REMEDY SHALL BE ADOPTED

Upon the threshold of our deliberations. I will not undertake to indicate to you how you should solve this new and difficult question of Constitutional reform. At the outset of this movement, I ventured to suggest that delegates should be cautious in undertaking to define just what provisions would be or should be embodied in the Constitution; that the new Constitution, when made and placed before the people for ratification, would be and ought to be the result of the united action of the Convention; that if one came here with his mind made up and his Constitution in his pocket, he would hardly be in a fit condition to confer with his fellow-delegates on this important subject. I still hold this view. I fail to appreciate the idea of those who seem to think it the duty of the delegates to this Convention to write out and publish their views before the Convention meets. Under this plan, we would be liable to have as many constitutions as delegates. What the people want, in my judgment, is an earnest consideration of and consultation upon these important questions, so that the finished work will represent the united wisdom and experience of the Convention.

Mississippi is the pioneer State in this movement. In addition to the payment of a poll tax, there it is provided that only those

can vote who have been duly registered, and only those can register who can read, or understand when read to them, any clause in the Constitution. The decision as to who are sufficiently intelligent to meet the requirements of the understanding clause is exclusively in the hands of the registrars.

But to this plan, the objection has been urged with force that it perpetuates the very form of abuse which we are seeking to escape. Elections by managers or registrars is not what we want, our aim should be for a correction of all evils which threaten the purity of the ballot and the morals of the people.

The provisions adopted in South Carolina require the payment of the poll-tax assessed against him for the previous year six months before any election, and that the voter shall be duly registered. To be qualified for registration up to January 1st, 1898, voters must have been able to read a clause in the Constitution or understand or explain it when read by the registration officer; and all who register subsequent to that time must be able to both read and write any section of the Constitution, or else show ownership of property assessed at $300 or more, and the payment of all taxes assessed against him and collectable during the previous year.

In Louisiana and North Carolina, the methods of relief adopted are substantially the same, and require, in addition to the poll tax clause, that the voter shall register in accordance with the provisions of the Constitution, and only those are authorized to register who are able to read and write any section of the Constitution in the English language, with the further provision, that no male person who was, on January 1st, 1867, or at any time prior thereto, entitled to vote under the laws of any State in the United States, wherein he then resided, and no lineal descendant of any such person, shall be denied the right to register and vote at any election, by reason of his failure to possess the educational qualifications prescribed, provided he registers within the time limited by the terms of the Constitution, which, in Louisiana, is about six months, and in North Carolina, about eight years.

It is contended in defense of this provision, that while, in effect, it will exclude the great mass of ignorant negro voters it does not, in terms, exclude them, and applies generally to all classes of voters, without reference to their race, color or previous condition of servitude; that all negroes who were voters prior to January 1st, 1867, of whom, it is claimed, there were quite a number, could vote, and the descendants, whether slaves or not, of these free negroes were entitled to vote, and that these were quite numerous. And on the other hand, that white people born in other countries—emigrants, who cannot read and write, could not vote, nor could white people who were unable to vote in the State in which they lived prior to 1867, unless they were able to read and write. If it be said that this exception permits many more white

people to vote than negroes, the answer was that this would be equally true of any proper qualifications which might be proposed. It would be true of an educational qualification, and it would be true of a property qualification, the validity of which has never been questioned.

These provisions are justified in law and in morals, because it is said that the negro is not discriminated against on account of his race, but on account of his intellectual and moral condition. There is a difference, it is claimed with great force, between the uneducated white man and the ignorant negro. There is in the white man an inherited capacity for government, which is wholly wanting in the negro. Before the art of reading and writing was known, the ancestors of the Anglo-Saxon had established an orderly system of government, the basis in fact of the one under which we now live. That the negro on the other hand, is descended from a race lowest in intelligence and moral preceptitions of all the races of men. As was remarked by the Supreme Court of the United States in the case of Williams vs. Mississippi (170 U. S. 213), quoting the Supreme Court of Mississippi: "Restrained by the Federal Constitution from discriminating against the negro race, the Convention discriminates against its characteristics and the offense to which its criminal members are prone."

As stated by Judge Cooley, the right of suffrage is not a natural right, because it exists where it is allowed to be exercised only for the good of the State—to say that those whose participation in the affairs of the State would endanger and imperil the good of the State have nevertheless, the right to participate, is not only folly in itself, but it is to set the individual above the State.

THE RIGHT OF SUFFRAGE IN MASSACHUSETTS

The election laws in Massachusetts contain substantially the same provisions as are embodied in the Constitutions of Louisiana and North Carolina just referred to. The election law of that State, as it stands today, provides that the voter must be able to read the Constitution of the Commonwealth in the English language, and to write his name, except that "no person who is prevented from reading and writing as aforesaid, by physical disability, or who had the right to vote on the first day of May in the year 1857, shall, if otherwise qualified, be deprived of the right to vote by reason of not being able so to read or write."

While it is true that the provisions of this law do not extend to the descendants of the voter, yet it does not seem that on that account the principle involved would be affected.

The exception in the Massachusetts law was, no doubt, directed against illiterate and incompetent immigrants, whereas the provisions in the Constitutions of Louisiana and North Carolina

were directed against illiterate and incompetent negroes, as well as foreigners.

But it is beyond the province of courts, it is claimed, to inquire into the motives of the law-making power; their function is confined to ascertaining the meaning and effect of the law drawn in question. These views have been elaborated and ably defended by Mr. Semmes of Louisiana, and by Mr. Rountree and Senator Simmons of North Carolina, from whose able arguments I have greatly profited.

They find strong support in the opinion of the Supreme Court of the United States, in the Mississippi case, where it is said: "If weakness were to be taken advantage of, it was to be done within the field of permissible action, under the limitations imposed by the Federal Constitution, and the means of it were the alleged characteristics of the negro race, not the administration of the law by officers of the State. Besides, the operation of the Constitution and laws is not limited by their language or effect to one race."—Williams vs. Mississippi, 170 U. S. III.

In Van Valkenberg vs. Brown, (13 Am. Rpts., 142), speaking of the limitation imposed upon the State by the recent amendments to the Federal Constitution, the Supreme Court of California says: "The mere power of the State to determine the class of inhabitants who may vote within her limits was not curtailed by the Fourteenth Amendment. The Fifteenth Amendment took away her power to discriminate against citizens of the United States on account of either race, color or previous condition of servitude, but the power of exclusion upon all other grounds remain intact.

Practically to the same effect is the decision of the United States Supreme Court in the case of Minor vs. Happersett. 21 Wall. 162.

The principle of inherited capacity is recognized even by the inspired Apostle, for you remember that Paul, in his epistle to Timothy, whom he was preparing to preach the glorious Gospel, refers to it even in the matter of faith, for he says: "I am persuaded that the unfeigned faith which dwelt in they grandmother Lois and in they mother Eunice dwells also in thee."

The great work before this Convention will be to study and carefully consider this question. It is for this purpose that so many of the wise and conservative men of the State, including many of the ablest representatives of the bar, have been asked, for the time, to lay aside their business and the duties of an exacting profession, and consecrate to the service of the State all the talent, experience and ability they possess. I am not prepared to say whether or not this Convention will approve the form of relief which has been adopted in our sister States but I feel

confident that there is intelligence and ability enough here to settle this question to the satisfaction of our people. We have inaugurated the movement and we must succeed. It is not to be expected that a reform movement like this will meet with universal approval, but when your finished work is submitted, and you present, as I believe you will, a practical solution of the evil conditions under which we now live, it will be appreciated and accepted by our people.

AUTHORITY TO FUND THE STATE DEBT

There are other questions which might be considered, but to which I shall be able to give only a passing notice. In view of the fact that a large part of the State's bonded indebtedness will soon mature, it is important and necessary that some provision should be made for funding the indebtedness of the State. Very able lawyers have doubted if there be any authority in the State, under the present Constitution to fund the State's indebtedness. At the time of the adoption of the present Constitution the creation of debt on the part of the State, county and municipal authorities, had been abused to such an extent as to cause great alarm, and so the framers of the present Constitution, in their anxiety to curtail this evil, seem not to have provided as fully as might be for the payment or the funding of the State's indebtedness by the issuance of new bonds or obligations. The provision of the present Constitution on this subject is as follows:

"After the ratification of this Constitution, no new debts shall be created against or incurred by this State or its authority, except to repel invasion or suppress insurrection, and then only by a concurrence of two-thirds of the members of each House of the General Assembly, and the vote shall be taken by yeas and nays and entered on the journal; and any act creating or incurring any new debt against this State, except as herein provided for, shall be absolutely void; provided, the Governor may be authorized to negotiate temporary loans never to exceed $100,000, to meet deficiencies in the Treasury; and until the same is paid, no new loan shall be negotiated; provided, further, that this section shall not be construed as to prevent the issuance of bonds in adjustment of existing State indebtedness."

The power to settle the State's then existing indebtedness has been exercised under the debt settlement acts, and a doubt has been raised whether, under the restrictive terms of the present Constitution, there be any power to issue new bonds to pay or fund the debt at its maturity.

There can be no doubt but that the State debt, under present conditions, can be funded at a greatly reduced rate of interest, and at such a rate as will save the State largely more than the cost of the holding of this Convention.

MUNICIPAL AND COUNTY INDEBTEDNESS

Then again, there is the question of the authority of county and municipal governments to create debts totally beyond the resources which must be looked to to provide payment. The framers of the present Constitution carefully stipulated a maximum rate of taxation, but made no provision against the creation of debt over and beyond the resources of the county or municipality. Consequently, improvident and unscrupulous officers have been able to impair the credit and fasten a load of debt upon cities and counties in different portions of the State, which has involved many of them in litigation and bankruptcy. Some just provision should be incorporated, limiting the power to create debt beyond the reasonable ability of the county or municipality to pay.

EDUCATION

Then, again, there is the great question of education, which so vitally touches the interests of our people. I believe we should keep faithfully the pledges we have given not to increase taxation, but this should not deter us from making every effort to rid our State of the disgrace of its illiteracy. As Dr. Curry forcibly puts it, it will not do to say you are too poor to educate the people—you are too poor not to educate them.

Nothing has so retarded the rapid growth and development of our State as the absence of a well regulated system of public schools, so as to place within the reach of every child in the State, both rich and poor, the means of obtaining free of tuition fees, such instruction as will qualify him for the responsible duties of life.

The productive power of labor in Massachusetts is said to be nearly double that of the average for each inhabitant of the whole United States, and the reason assigned is the superior educational advantages she furnishes to her people.

You cannot expect skilled labor to enter our State, if by doing so their children are to be denied the means of a common school education. We must fight ignorance as we would fight malaria, for it is only by educating its people that a State can gain and maintain a proud position among the nations of the earth.

It has been urged in some quarters as a reason why this movement for a new Constitution should be defeated that we propose to adopt a suffrage plan which will offer to the negro an incentive to obtain an education, while the child of the white man will be without a like stimulus, because protected in his right to vote without regard to the density of his ignorance.

I do not understand that any delegate to the Convention is pledged to any such legislation. We are pledged, "not to deprive any white man of the right to vote," but this does not extend unless this Convention chooses to extend it beyond the right of

voters now living. It is a question worthy of careful consideration, whether we would be warranted in pursuing any course which would have a tendency to condemn any part of our population to a condition of perpetual illiteracy. Provisions of the Constitution prescribing educational qualifications for voters as they affect those who now have no right to vote but in the course of time will acquire the right are wisely intended to serve not as a curse, but as a noble stimulus to the acquirement of an education and to a proper preparation for meeting and discharging the duties of a citizen.

There is a strong reason why those who have fought the battles of the State—those who have been trained in the duties of citizenship, and possess character, judgment and intelligence which enables them to appreciate the responsibility it imposes, should not be denied the right to vote, even though they may lack the elements of an education, but it does not follow that it is to the interest of the State that the indulgence should be extended to the second generation—especially so when learning to read and write are within reach and so easy to obtain!

The States of Mississippi, South Carolina and Louisiana, in dealing with this great question, have rightfully considered that the betterment of facilities for securing an education for all the people was a necessary and essential part of any just and wise scheme for the regulation of the right of suffrage, and for the purification of the ballot.

There are other matters of importance I might refer to, but I have already continued much longer than was intended. Your work is before you. The responsibilities it imposes are great, but I do not doubt that you will discharge them with courage and with fidelity. In my judgment it is better, far better, to have accomplished something for the permanent and everlasting good of your people than to possess any honor which the State can confer.

Abou Ben Adhem awakened from a dream, found an angel, writing in a book of gold the name of those whom love of God has blessed. "And is mine there?" he asked. But the angel answered, "Nay." "I pray thee, then," he said, "write me as one who loves his fellow men." The angel wrote and vanished. The next night it came again, with a great awakening light, and showed the names whom love of God had blessed. And lo! Ben Adhem's name led all the rest."

THE PRESIDENT—The next business before the Convention will be the election of a Secretary.

MR. BROOKS—Mr. President, before proceedings to the election of a Secretary, I desire to submit a motion that the remarks of the Chair be spread upon the minutes, or on the journal,

in order that they may find a permanent place among the records of this Convention.

The motion being seconded, was put by Mr. Brooks and unanimously carried.

MR. ROBINSON—The Enabling Act does not provide for the subordinate officers of the Convention; therefore there will have to be some resolution creating those officers of this Convention.

MR. BULGER—Mr. President, I desire to offer a resolution.

The resolution was read by the Secretary:

Resolved, That the President appoint a committee, consisting of nine members, to be known and designated as a Committee on Rules, of which committee the President of the Convention shall be chairman.

MR. BULGER—I move the adoption of the resolution.

The motion was seconded.

MR. HEFLIN (Chambers)—I would like to amend that by saying two from each Congressional District. I do not think that two from each Congressional District will be too many, I move that as a substitute, or I would like to amend the motion with the gentleman's consent, so as to read that two shall be appointed from each Congressional District instead of one.

MR. O'NEAL (Lauderdale)—I desire to offer a substitute resolution.

MR. LOMAX—I rise to a point of order. I submit that this Convention should complete its permanent organization before it proceeds to the consideration of any resolutions whatsoever.

THE PRESIDENT—In the opinion of the Chair the point of order is well taken.

MR. WEAKLEY—I desire to nominate for Secretary of this Convention Mr. Frank N. Julian of Colbert.

THE PRESIDENT—Mr. Colbert's Name is placed in nomination.

MR. deGRAFFENREID—I rise to a point of order. The act does not provide for a secretary. It says secretary or clerk, and I think that any nomination for any office will be out of order until this Convention determines what subordinate officers it shall have.

MR. ASHCRAFT—I desire to offer a resolution.

The resolution was read by the Secretary:

Resolved. That this Convention proceed with its further organization by the election of the following officers in the order named: Secretary, Assistant Secretary, Door Keeper, Assistant Door Keeper.

MR. SANFORD—I move to amend that resolution by adding Sergeant-at-arms.

MR. ASHCRAFT—This resolution, Mr. President, is in conformity with the action of the Democratic caucus of last night, and I therefore move it adoption.

The motion was seconded and the resolution unanimously adopted as read.

MR. WEAKLEY—I now nominate Mr. Frank N. Julian of Colbert for Secretary of this Convention.

THE PRESIDENT—The name of Mr. Frank N. Julian has been placed in nomination. Are there any other nominations?

MR. WEAKLY—I move that Mr. Julian be elected by acclamation.

MR. WATTS—I rise to a point of order. The present Constitution requires that all elections by those acting in a representative capacity shall be by viva voce vote.

THE. PRESIDENT—In the opinion of the Chair that does not apply here. I overrule the point of order. The question is upon the adoption of the motion to elect Mr. Julian by acclamation.

The question was put and carried unanimously and Mr. Frank N. Julian of Colbert declared elected Secretary of the Convention.

MR. LOMAX—For the office of Assistant Secretary of the Convention I place in nomination the name of Mr. W. F. Herbert of Montgomery.

THE PRESIDENT—The name of W. F. Herbert of Montgomery is placed in nomination for the office of Assistant Secretary. Are there any other nominations?

MR. LOMAX—I move that Mr. Herbert be elected by acclamation.

The motion was seconded and carried unanimously, and Mr. Herbert declared elected Assistant Secretary of the Convention.

MR. GRAHAM (Talladega)—I desire to place in nomination Robert Hasson of Calhoun for Door Keeper, and move that he be elected by acclamation.

THE PRESIDENT—Mr. Hasson of Calhoun is placed in nomination for the office of doorkeeper. It is moved that he be elected by acclamation.

The motion was carried unanimously.

MR. SOLLIE—I place in nomination for the office of Assistant Door Keeper Mr. Thomas J. Fain of Dale, and move that he be elected by acclamation.

The motion was seconded.

THE PRESIDENT—The name of Mr. Thomas Fain has been placed in nomination for Assistant Door Keeper, and it is moved that he be elected by acclamation.

The motion was carried unanimously.

MR. SMITH (Mobile)—I have a resolution to offer.

The resolution was read by the Secretary:

Resolved. That the President appoint a committee on Rules, of nine members of which the President shall be the Chairman, to report the number of subordinate officers, manner of their selection, and their duties, the various standing committees, the order of business and the rules for the government of this Convention, and, until such rules are reported and adopted, the rules of the last House of Representatives, as far as applicable, shall govern.

MR. SMITH (Mobile)—I move the adoption of the resolution.

Seconded.

MR. JONES (Montgomery)—I move to strike out the last part of the resolution. We do not know what the rules of the House of Representatives are. They will get us in a tangle, and this committee will report in a day, and I think it will be better for the Convention to be governed by general parliamentary law, instead of the method proposed by the resolution.

MR. SMITH—I accept the motion to strike out the last portion of the resolution.

THE PRESIDENT—Those in favor of the adoption of the resolution as offered by the gentleman of Mobile as amended, will please say aye.

The resolution was adopted unanimously.

MR. BROWNE—I desire to offer a resolution.

The Secretary read the resolution:

Resolved. That until the report of the Committee on Rules, all resolutions shall be referred without debate to proper committees when raised.

MR. BROWNE — Mr. President, there will be some minor resolutions and motions which will be necessary to be passed without being referred. But, in every such instance the party making the motion of offering the resolution, can move to suspend

the rules and pass the resolution at once, such as a resolution providing for the seating of members, etc. I therefore move the adoption of the resolution.

Motion seconded, and carried unanimously.

MR. HEFLIN (Chambers)—Mr. President, I move that a committee of nine, one from each Congressional District, be appointed on the arrangement of seats, and the seating of the delegates.

THE PRESIDENT—It is moved that a committee of one from each Congressional District be appointed for seating the delegates.

MR. BLACKWELL—I move as a substitute the following resolution in regard to seating.

The Secretary read the resolution:

Resolved. That in order to equitably assign the delegates seats in this Convention, that the names of all delegates be placed in a hat, and that one of the pages be blindfolded and draw out one at a time the names from the hat, and that the Secretary immediately read the name so drawn, and that the party whose name is read at once select his seat, and after all seats are so drawn, delegates shall have the right to exchange seats, if they so desire.

The motion was seconded.

A vote being taken, the substitute was adopted unanimously.

PRESIDENT—The question is now on the adoption of the original proposition as amended by the adoption of the substitute. Those in favor of the adoption of the original resolution as amended will say aye—

MR. BROWNE—I rise to a point of order. That resolution cannot be put, except on a suspension of the rules. There has been a rule just adopted that all resolutions—

THE PRESIDENT—The point of order is too late. Those opposed say no. The ayes have it, and the resolution is adopted.

MR. SMITH (Mobile)—I move that this Convention adjourn until tomorrow morning at 11 o'clock.

Seconded.

MR. OATES—I will ask the gentleman from Mobile to withdraw the motion for a moment.

MR. SMITH—I withdraw the motion for a moment.

MR. SANFORD—I desire to offer a resolution, that the Convention will entertain no motion—

THE PRESIDENT—Does the gentleman from Mobile withdraw his motion to adjourn?

MR. SMITH (Mobile)—I understood it was to swear in the officers and not for the purpose of considering further resolutions that the request was made.

MR. OATES—I think if the gentleman hears the resolution he would have no objection.

THE PRESIDENT—Does the gentleman withdraw his motion to adjourn?

MR. SMITH (Mobile)—No, sir.

THE PRESIDENT—The gentleman from Mobile declines to withdraw his motion. The gentleman from Montgomery is out of order.

The motion to adjourn was put, and declared lost.

MR. OATES—I now offer a resolution.

The resolution was read by the Secretary.

Resolved. That a special committee of nine members be appointed by the Chair to take into consideration the advisability of contracting with an expert stenographer to report the proceedings of this Convention in full, and the necessary cost thereof and report the same to the Convention at the beginning of tomorrow's session.

THE PRESIDENT—The question is on the adoption of the motion offered by the gentleman from Montgomery.

MR. SMITH (Mobile)—I rise to a point of order. This will have to be referred to a committee.

THE PRESIDENT—The points of order is well taken.

MR. SANFORD—I offer this resolution in order to avoid an accumulation of a mass of papers that may be lost on the Secretary's desk:

Resolved. That the Convention will entertain no motion, resolution or ordinance having for its object the revision or amendment of the Constitution until the committees are appointed by the President.

Seconded.

THE PRESIDENT—The question is on the adoption of the resolution offered by the gentleman from Montgomery.

A DELEGATE—A point of order. It goes to the Committee on Rules.

THE PRESIDENT—I sustain the point.

MR. OATES—Mr. President the gentleman will certainly see the importance of immediate action on the resolution I offered, if it is going to be favorably acted upon at all. Therefore, I move to suspend the rules, and act upon that resolution at once.

THE PRESIDENT—It is moved by the gentleman from Montgomery that the rules be suspended and that action be taken upon his resolution at once, without reference to the Committee on Rules.

MR. BULGER—I ask the reading of the resolution.

The resolution was read by the Secretary:

Resolved. That a special committee of nine members be appointed by the Chair to take into consideration the advisability of contracting with an expert stenographer to report the proceedings of this Convention in full, and the necessary cost thereof, and report the same to the Convention at the beginning of tomorrow's session.

THE PRESIDENT—The question will be upon the motion of the gentleman from Montgomery to suspend the rules and put the resolution on its immediate passage.

MR. BULGER—It looks to me, Mr. President, that this is the resolution of all the resolutions offered here, that should be well considered by the Committee on Rules. It seems to me that that resolution should not go—

MR. WHITE—I make the point of order, Mr. President, that a motion to suspend the rules is not debatable.

THE PRESIDENT—The point is well taken. The question is on the motion of the gentleman from Montgomery to suspend the rules—

MR. LONG (Walker)—I wish to give notice that I will move to reconsider the motion at the next session of this Convention, offered by the gentleman from Morgan, (Mr. Blackwell.) I shall do so because it makes a gamble out of these seats; it ignores old Democrats that have been in the service of the party for years, and it gives Populists and Republicans a chance to take any seat in this House. I shall move to reconsider that at the next meeting.

THE PRESIDENT—The question is on the adoption of the motion of the gentleman from Montgomery to suspend the rules, and place on passage the resolution that has been read in your hearing.

MR. BULGER—I rise to a parliamentary inquiry. What vote does it require to suspend the rules of this Convention?

THE PRESIDENT—The chair would rule that it requires a two-thirds vote.

MR. LOMAX—We are acting under general parliamentary law.

THE PRESIDENT—There is a conflict in the authorities. Mr. Cussing seems to hold that it requires unanimous consent, but the other authorities hold that it requires a two-thirds vote. I think the general practice is to require a two-thirds vote.

The question being put, a division was called for, and resulted, yeas, 98; nays, 18.

So the motion was carried.

THE PRESIDENT—The question will be on the adoption of the motion of the gentleman from Montgomery. Those in favor of the adoption of this resolution will please say aye.

The motion was carried unanimously.

MR. EYSTER—I move, before proceeding any further, that the officers elected by this Convention be now sworn in.

The motion was seconded and carried unanimously.

MR. BROOKS—I desire to call attention to the fact that the journal of yesterday has not been read. It should be read or a motion made to dispense with the reading.

THE CHAIR—The journal will be read immediately after the officers are sworn in.

The officers were here sworn in.

MR. BROWNE—I move that we dispense with the reading of the journal of yesterday.

MR. HEFLIN (Chambers)—It is very short.

THE PRESIDENT—The question is on the motion to dispense with the reading of the journal of yesterday.

MR. REESE—I rise to an inquiry. Is it not necessary that the President of this Convention should be sworn in as President of the Convention in addition to have been sworn in as a member?

THE PRESIDENT—I have not examined the provisions of the act, but I should think not. Unless the gentleman calls my attention to some provision in the act requiring it, I would rule that it is not necessary.

MR. REESE—My information is that it was done in the last Convention.

MR. SANFORD—I rise to a point of information. It is ruled that all resolutions should be submitted to the Committee on Rules; the rules have been suspended; now do those resolutions which were referred to that committee before the rules were suspended, are they now up for consideration or not?

THE PRESIDENT—The rules are suspended only for the purpose of placing on its passage the resolution offered by the gentleman from Montgomery. The clerk will please read the journal.

The journal of yesterday was read by the Secretary, and approved.

MR. HOWELL—I move that the rules be suspended and that this resolution be put on its passage.

The Secretary read the resolution:

Resolved. That a committee of three be appointed by the Chair to wait on the clergymen of this city and invite them to lead religious service at the opening of the morning sessions of this body.

MR. WHITE—I move the suspension of the rules and that the resolution be passed.

A vote being taken the rules were suspended and a further vote being taken the resolution was adopted.

MR. deGRAFFENREID—I move that the Convention adjourn until tomorrow morning at 11 o'clock.

MR. DENT—Before that is done, I ask indefinite leave of absence for the member from Barbour, Mr. Jere N. Williams, who is called home on account of the serious illness of his grandchild.

The leave was granted.

MR. LONG (Walker)—It has been suggested that my motion to reconsider the vote by which the motion made by the gentleman from Morgan was adopted, which makes the seats in this house a lottery, irrespective of Congressional Districts—

THE PRESIDENT—Let me state the question before debate. The question is on the motion of the gentleman from Walker to reconsider the vote by which the resolution of the gentleman from Morgan was adopted, providing for the distribution of the seats in this Convention.

A reading of the resolution was called for, and the resolution was again read.

MR. LONG (Walker)—That resolution is plain. It separates the members from the counties as well as the members from the Congressional Districts. It gives to the Populists and Republi-

cans a chance to select the best seats in the House. This is a Democratic House and a Democratic measure.

MR. FITTS—I rise to a point of order.

THE PRESIDENT—The gentleman will state his point of order.

MR. FITTS—Under general parliamentary law, a motion to reconsider can only be made before other business. Business has intervened and this is out of order.

MR. LONG (Walker)—I gave notice that I would make that motion.

MR. FITTS—The proper time to make the motion was then; but now business has intervened, and it is out of order.

MR. LONG—I ask a ruling.

THE PRESIDENT—The Chair is inclined to think that the gentleman from Walker is out of order.

MR. BLACKWELL—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point.

MR. BLACKWELL—The gentleman did not vote for the original resolution when it was adopted.

MR. LONG — I make the point of order that he does not know what he is talking about. Besides, then was the time he should have made his point of order; and I ask the President to rule him out of order.

THE PRESIDENT—Did the gentleman vote for the resolution?

MR. LONG—I don't know that I should be challenged on that. I make the point that then was the time to make the challenge.

THE PRESIDENT — I think the challenge does come too late, after the Chair has stated the question to the Convention, and the gentleman from Walker will proceed.

MR. LONG—It would be an injustice to many gray-haired delegates to adopt that resolution. It is a slap at the church to turn this Convention into a gambling association the first day we meet. If we are going to turn this into a gamble, I think we had better shoot craps for the seats. The Democrats have won the victory and they are entitled to the advantages of the seats in the House. I think it would be wise to reconsider that proposition and let one or two from each Congressional District be appointed by the Chair and I take it that it would be wise for the Chair to select the oldest Democrats to select these seats. The oldest Demo-

crats in it should have the best seats, and I move a reconsideration of the vote by which the motion of the gentleman from Morgan was carried, and on that I call for the previous question.

THE PRESIDENT—The previous question is moved. The question is whether the main question shall be put.

MR. WHITE—The call for the previous question has not been sustained, and I submit that while this may appear to be a matter of little—

MR. LONG—I rise to a point of order. The previous question has been called and it is the duty of the Chair to put that question before there is any other argument made, pro or con.

MR. WHITE—But the call has not been sustained.

THE PRESIDENT—I think the point of order is well taken.

MR. WILSON (Clarke)—There is no special rule providing for the previous question. In the absence of a rule calling for the previous question, the previous question is out of order.

THE PRESIDENT—The Chair will over-rule the point of the gentleman from Clarke, and the question is shall the main question be put.

MR. WHITE—Can't I speak to this question.

THE PRESIDENT—The question is not debatable.

MR. WHITE—Then I hope the previous question will be not ordered, and I move to indefinitely postpone it.

MR. BROOKS—I rise to a point of order. A motion cannot be made to indefinitely postpone a call for the previous question.

THE PRESIDENT—The point of order is well taken.

A vote was then taken and on a call for a division the result was announced: Yeas, 51; nays, 62.

So the motion was lost.

The Chair then recognized Mr. White.

MR. WHITE—This proceeding, as I was going to say, is a matter of little concern, but as I understand it, we are here, not as partisans, but are here representing the people of Alabama. (Applause) And the question of the adoption of what we do must be submitted to the people of Alabama, and if our proceedings on the first day of our organization are characterized by partisanship and injustice, how can we expect the people of Alabama to think well of and ratify what we do?

And now we are told that the resolution which has been adopted should be reconsidered, because it is a lottery. I deny,

Mr. President, that there is anything immoral or improper in the selection of seats by lot. If there were I would be one of the last men in this Convention to stand by it and sustain it. In Congress the seats are selected by lot. We have that splendid example beginning with the formation of our government and extending down to the present time. In nearly all of the States of the Union, seats in their legislative bodies are selected by lot, and we have that to justify our conduct. Upon our own statutes, where men are running for office under the laws of Alabama when they tie, it is provided that it shall be decided by lot. So that the proposition is sanctified by law, and the law of Alabama at that.

Now, Mr. President, and gentlemen of the Convention, about the other matter.

MR. OATES—Will my friend allow me to suggest that this is the plan that prevails in Congress, and has prevailed for one hundred years.

MR. WHITE—I understand that, but I could not say it like the gentleman from Montgomery.

We are told today that some scheme must be arranged by which delegates elected to seats upon this floor must be discriminated against because they belong to a party other than our own.

For one, I confess that I am a partisan; but I am not such a partisan as that. One delegate elected to this Convention has the same rights upon this floor that every other delegate has. He ought to be given the same opportunities and the same advantages to represent his constituency that every other delegate has. For one, I am not ready now to insult or to discriminate against any delegate upon the floor of this Convention and I am not ready to insult or to discriminate against the constituency behind him. They are Alabamians and they have interests and rights, and these delegates are here to reflect their will and protect their rights, and they have a right to be heard with equal advantages and with equal opportunities with the rest of us.

I want, Mr. President, when we have finished the Constitution, that Populists and Republicans and all may welcome and vote for it.

Mr. President, if I had my way, and it were controlled by my voice or by my vote, I would not adopt a Constitution for Alabama that would perpetuate indefinitely the partisan rule of any party. We are not looking forward to the interests or to the welfare of any political organization; but we are looking forward to the development and the growth and glory of Alabama as a State. (Applause.) While I love the Democratic party, while I have faced the front in its ranks from the days of my boyhood until now, while I expect to fight its battles while I live, I love my country better than I do my party. A party with me is but the implement

by which great ends can be accomplished. I do not believe it should ever become my master, and I its slave. And I say, Mr. President, if this resolution is adopted, backed by the speech of my friend—my good friend from Walker, in whose fields I labor and labor not in vain—if that resolution is adopted. I can say to you "Farewell to every Republican vote in Alabama looking to its ratification." You can say farewell to every Populist vote in Alabama looking to its ratification.

I know something of the task we had to perform in securing the holding of this Convention, and I can see something of the duties, the responsibilities, the labors and the uncertainties that will confront us in its adoption if we undertake by any such partisan methods as this to deny upon the floor of this Convention equal rights and equal opportunities to every delegate upon this floor, and I hope, Mr. President, that the resolution of the gentleman from Walker to reconsider the vote will be laid upon the table, which motion I now make.

MR. LONG—As the mover of the resolution, I have a right to conclude.

THE PRESIDENT—A motion to lay on the table is not debatable.

MR. LONG — I ask the gentleman from Jefferson to withdraw it. He is certainly not afraid of a discussion of this question before the house.

THE PRESIDENT—A motion to lay on the table is not debatable.

MR. LONG—I ask the gentleman from Jefferson to withdraw it. He is certainly not afraid of a discussion of this question before the house.

MR. WHITE—My brother, I would like to do it—

MR. LONG—Oh, don't do it if you don't want to.

MR. WHITE—On your account I would do almost anything, but I do not think it is conducive to the best interests of the people of Alabama or to the high standing of this Convention, that this discussion along these lines should proceed. (Applause).

THE PRESIDENT—The question is on the motion of the gentleman from Jefferson to lay on the table the motion of the gentleman from Walker.

MR. LONG—I want to see how many of the members of this House are in favor of gag law on a question of this kind. If this is an insult to the Republicans, they have been insulted ever since the Democratic party came into power in this hall in 1874.

THE PRESIDENT—The gentleman is out of order.

A DELEGATE—One delegate can't demand a roll call.

THE PRESIDENT—The Chair knows of no general parliamentary rule that requires any particular number of votes. In the absence of some special rule to sustain a call for an aye and no vote I think the rule is that any member may call for it, and the Secretary will call the roll.

MR. BURNETT — I would like for the Chair to state the question.

THE PRESIDENT—The gentleman from Walker moved to reconsider the vote by which the resolution offered by the gentleman from Morgan was adopted, and now the gentleman from Jefferson moves to lay that motion on the table, and a yea and nay vote is demanded.

The roll being called resulted as follows:

AYES

Messrs. President,
Altman,
Almon,
Ashcraft,
Banks,
Barefield,
Beavers,
Beddow,
Blackwell,
Boone,
Browne,
Bulger,
Burnett,
Burns,
Byars,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Case,
Cunningham,
Dent,
deGraffenreid,
Eley,
Eyster,
Espy,
Ferguson,
Fitts,
Foshee,
Foster,
Freeman,
Gilmore,
Graham, of Talladega,
Grant,
Greer, of Calhoun,
Handley,
Harrison,
Henderson,
Hinson,
Hodges,
Howell,
Jackson,
Jones, of Hale,
Jones, of Wilcox,
Kirk,
Kirkland,
Ledbetter,
Leigh,
Locklin,
Lomax,
Long (Butler),
Lowe (Lawrence),
Macdonald,
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Martin,
Maxwell,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Moody,
Mulkey,
Murphree,
NeSmith,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
O'Neill (Jefferson),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore)
Pearce,
Pettus,
Phillips,
Pillans,
Pitts,
Porter,
Proctor,
Reynolds (Chilton),
Reynolds (Henry),
Rogers (Lowndes),
Samford,
Sanders,
Sentell,
Sloan,
Smith, Mac. A.,
Smith, Morgan M.,
Sollie,
Sorrell,
Spears,

Thompson,	Weakley,	Wilson (Clarke),
Vaughan,	Weatherly,	Wilson (Washington),
Waddell,	White,	Winn,
Walker,	Whiteside,	Total—104.

NOES

Bethune,	Graham, of Montgomery,	Long (Walker),
Brooks,	Grayson,	Reese,
Cardon,	Greer, of Perry,	Robinson,
Chapman,	Haley,	Rogers (Sumter),
Cobb,	Heffin, of Chambers,	Sanford,
Coleman, of Greene,	Heflin, of Randolph,	Searcy,
Coleman, of Walker,	Hood,	Selheimer,
Cornwall,	Howze,	Spragins,
Craig,	Inge,	Stewart,
Davis, of DeKalb,	Jenkins,	Tayloe,
Davis, of Etowah,	Jones, of Bibb,	Watts,
Duke,	Jones, of Montgomery,	Willett,
Fletcher,	Knight,	Williams (Marengo),
Glover,	Kyle,	Total—41.

ABSENT OR NOT VOTING

Bartlett,	Lowe (Jefferson),	Smith (Mobile),
Cofer,	Morrisette,	Studdard,
King,	Renfro,	Williams (Barbour),
	Williams (Elmore).	

So the motion to table prevailed.

During the roll call.

MR. JONES (Montgomery)—I vote "no" simply from the fact that I think my friend from Walker ought to have a chance to be heard. Otherwise I would vote aye.

MR. WILLIAMS (Marengo)—I vote "no" but it is not indicative of my feelings. I think, though, that this is an open question, and this is as good a time to discuss it as any. Therefore, I vote no.

MR. BURNS—I ask leave to explain my vote.

The leave is given.

MR. BURNS—I was heartily in favor of the resolution to reconsider, but on account of reason assigned for it, I shall vote aye.

MR. deGRAFFENREID—I move to adjourn until tomorrow at 11 o'clock.

Cries of "Seats."

MR. LONG (Walker)—The resolution under which those seats are to be drawn provided for a page to be selected by the President. This Convention is without pages, and how can we do that until pages or a page is selected?

A vote being taken on the question to adjourn and a division being asked the vote resulted, yeas, 57; nays, 65. And the Convention refused to adjourn.

MR. BLACKWELL—I now move that the Convention proceed with the business of selecting seats.

MR. LONG (Walker)—I suggest that you send out and get a deck of cards and let the Chaplain deal out the cards and the high spade get the choice.

MR. LOWE (Lawrence)—I don't understand how we can possibly proceed now.

A DELEGATE—The President can appoint a boy to act as page.

MR. BURNETT—I rise to a point of order. There is other business before the Convention. The motion of the gentleman from Montgomery to appoint a Committee of nine was carried. The President has not appointed that committee. Then there was the motion to appoint two members from each Congressional District on the Committee on Rules. That is the next business in order.

THE PRESIDENT—The Chair is not ready to announce those committees, and the point is well taken.

MR. CUNNINGHAM—The question of seating is very important. The names have to be written and put into a hat and there are many delegates absent, not knowing that this important business was to come up. I therefore move that the selection of the seats be made a special order immediately after the reading of the Journal tomorrow morning and in the meantime the Secretary can prepare the names and the Door Keeper number the seats.

THE PRESIDENT—The gentleman from Jefferson moves as a substitute that this be made a special order—the distribution of seats—immediately after the reading of the journal tomorrow morning.

MR. OATES—It is not necessary to go to the trouble of numbering the seats. When the name of a delegate is drawn, it can be pasted on the seat.

MR. CUNNINGHAM—I withdraw that part of the motion then.

MR. OATES—I am in favor of the motion, but I merely want to say that much because the gentleman did not seem to exactly

understand the method. The seats will be vacated and when a gentleman's name is called he will be allowed to go and select any seat not occupied and his name will be put on it.

A vote being taken, the motion was carried.

On motion of Mr. Proctor, the Convention then adjourned until tomorrow morning at 11 o'clock.

THIRD DAY

MONTGOMERY, ALA.,
Thursday, May 23, 1901.

The Convention met at 11 o'clock a. m., was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Andrews as follows:

O Lord, our Heavenly Father, we thank Thee that through the riches of Thy grace and Providence we are permitted to meet this morning. We thank Thee for the health and strength and vigor of mind and body which characterizes all of Thy servants who this morning have met to carry out the mandates of their constituencies and to act for their good and for their future welfare. We thank Thee, O Lord, for Thy blessings upon our beloved State. We thank Thee that Thou hast led us along the paths of prosperity and in the ways of peace. We pray this morning that Thy blessings may rest upon our Commonwealth. Bless our State and all those, we beseech Thee, who are in authority over us. Bless Thy servant, the Governor. Bless all who aid him in the responsible work that he has in hand, and may the Lord give to our people gracious and abundant prosperity and grant that they may not only be blessed with the goods of this world, but that they may be everlastingly rewarded in the world that is to come.

We pray Thee our Heavenly Father that every department of our State government may receive Thy blessing, and that our people in the common, ordinary walks of life may be people who love God, who serve Him with consistency and fidelity and who honor Him with pure lives and holy thoughts and with noble and upright walks, and we pray Thee, our Heavenly Father, that Thou wouldst bless not only our State, the State so dear unto our hearts, but bless this government in which we live. Give unto the President of this Republic and all his counselors wisdom that in the delicate and responsible work which lies before our government they may have Divine direction and that they may receive the blessings and the guiding wisdom that God alone can give.

We pray Thee, O Lord, to bless this body assembled from all parts of the State. Bless Thy servants. Grant that their lives and their influence in our Capital City may be pure and wholesome and good. Grant that they may represent their constituencies not only in these halls, not only in the faithful discharge of duty, but, O Lord, help them that they may represent them in pureness of thought and life so that when they are gone the influence that they have left behind them will tell for good upon future generations. And, O Lord, help them especially, we pray Thee, in the difficult work that calls them together. We know, Our Father, in all things we need Divine aid, and that in the work which lies before this Convention they especially need the direction that cometh alone from on high. They stand with uncovered heads before Almighty God in the presence of an expectant people, and we pray Thee that they may prove worthy of the trust committed to their care. Help them that they may be careful, help them that they may be prudent, but help them that they may be eminently wise in all that they do and in all that they say, and when the work is done, may it be such as God will approve and such as their people will applaud and such as that their consciences will tell them that they have done the best they could, and grant our gracious Lord that their deliberations from day to day may be honored by Thy presence and that truth may characterize all that they do, and when their work is done, may they go back to the people and may the gracious Father on high say unto each one, "Well done, thou good and faithful servant." Grant, our Father, as we are preparing here for the best method of living amid the conditions of our own Southern life, that we may all of us act and live in such a way that when the time shall come that we must pass to the judgment bar of the Eternal One, we may there receive the plaudit of Our Father and an abundant entrance into the home on high.

Bless Thy servant who is called to preside over this Convention. Give him wisdom, and, O Lord God Almighty, grant that he may have the health which God can give in his difficult work. Bless each one of the officers, bless all of our people and finally, O Lord, when our work below is done, when by the will of God, we have served our day and generation and sleep with our fathers may we enter upon the heritage which remains for those who lived right and honored God and throughout eternity we will praise Thy matchless name forever, through Christ our Redeemer. Amen.

The President directed the Clerk to call the roll, which was done.

THE PRESIDENT—There are one hundred and forty-nine members present, which is a quorum. The next thing in order is the reading of the Journal.

MR. REESE—I ask that the gentleman will also include in that list three other gentlemen who occupied seats in the Constitutional Convention of 1875.

MR. WEATHERLY—That will be readily accepted.

MR. WILSON (Clarke)—I rise in behalf of a gentleman of this Convention who is not a distinguished man in the sense that he has been a Governor of this State or a member of any other Constitutional Convention, but, who though an humble farmer, is a man of very superior intellect and who has come to his seat on crutches and if he should happen to get a seat in a bad place it might be difficult for him to get to it. I refer to the Hon. Dabney Palmer, and I ask unanimous consent that his name may be added to the list of exempted ones.

MR. BURNS—Will the gentleman allow me. I have a resolution that all cripples and all members of this Convention past the age of 65 years be allowed to choose their seats.

No action was taken on this resolution.

THE PRESIDENT—The question is on the adoption of the motion of the gentleman from Jefferson that we exempt from the operation of the rule as to selecting seats the two ex-Governors, Oates and Jones; the two ex-Justices of the Supreme Court, and the three members of the Constitutional Convention of 1875, and Hon. Dabney Palmer. Do you accept that?

MR. WEATHERLY—Yes Sir.

MR. OATES—As far as I am concerned I do not ask any advantage over any gentleman on account of anything I have done in the past, but there are two gentlemen who should be allowed to select their seats on account of being on crutches. They are Mr. Palmer and Governor Jones.

A vote being taken, the rules were suspended.

THE PRESIDENT—The question is on the adoption of the resolution.

MR. CASE—I rise to a question of personal privilege. The Montgomery Advertiser of the 22d, in speaking of the delegates in relation to myself, says that I am regarded as opposed to the Democratic party. While I do not, Mr. President, intend any reflection upon the high character and integrity of that able, and, I believe, fair paper, I desire to respectfully say that if I be so regarded, I doubtless have been misrepresented for I am not opposed to the Democratic party and let justice be done though the heavens should fall—

MR. LOWE (Jefferson)—I think a gentleman who rises to a question of personal privilege should state it.

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MR. LOWE (Jefferson)—I think a gentleman who rises to a question of personal privilege should state it.

MR. CASE—I am stating it.

MR. LOWE—But so far as he has proceeded, it seems to be a declaration of political faith, although he seems to think it is a matter of personal privilege. I say that the statement of the gentleman, so far as I have heard it, is not to the point or pertinent to a question of personal privilege.

MR. CASE—I deny that.

THE PRESIDENT—The Chair will have to hear the statement before he can decide on it.

MR. LOWE—I say so far as he has gone, although he has consumed several minutes, he has stated no question of personal privilege.

THE PRESIDENT—The gentleman can proceed.

MR. CASE—I desire respectfully to say that if I be so regarded I doubtless have been misrepresented, for I am not opposed to the Democratic party, and let justice be done, though the heavens should fall. In fact, I have always advocated its principles as laid down by Jefferson, equal and exact justice and privileges to all men. On these principles I was elected here to the lower House of Representatives.

MR. LOWE—I again rise to the point of order that the gentleman is not stating any question or personal privilege.

MR. WILLETT—And I insist upon the point of order.

THE PRESIDENT—If the point of order is insisted upon, the Chair will have to sustain it. I do not think the gentleman is stating a question of personal privilege.

MR. CASE—I want to set myself properly before the delegates, and there is no reflection on any one.

MR. LOWE—But this Convention is not here to listen to the gentleman set himself straight.

MR. CASE—I have a right under parliamentary usages.

THE PRESIDENT—The gentleman is out of order. The Chair does not think he has been stating any question of personal privilege.

MR. CASE—I call for a division. I wish to be heard.

THE PRESIDENT—Does the gentleman appeal from the decision of the Chair?

MR. CASE—Yes, sir; and I call for a division. I desire to be heard.

THE PRESIDENT—The question is shall the Chair be sustained.

A vote being taken, the Chair was sustained by a unanimous vote.

THE PRESIDENT—The question is now on the adoption of the motion made by the gentleman from Jefferson.

A vote being taken the motion was carried unanimously.

MR. BURNS—In the selection of seats, I beg leave to be allowed to substitute in my place Hon. John W. A. Sanford. I turn over my choice of a seat to him, and I will take his chances.

The leave was granted.

MR. REESE—I call for the regular order.

THE PRESIDENT—The regular order is the selection of seats, and the following gentlemen are permitted to select seats without drawing: Oates, Jones (Montgomery); Coleman, (Greene); Walker, Palmer, Sanford (substituted for Burns), Murphree and Harrison.

MR. OATES—Several gentlemen have asked me about the method of enforcing that rule as to drawing seats, and I have agreed to get up and explain it as I am familiar with it. It is for the members to vacate all the seats and get in the rear and then the names are drawn and they are called and as they are called the gentleman can take any seat not occupied. If any gentleman, after he has taken a seat vacates it, any other member can take it and therefore, when any one selects his seat, it is necessary for him to remain in that seat until the seating is all completed in order to retain it.

The drawing of seats being completed.

THE PRESIDENT — The Convention will come to order. Under the resolution offered by the gentleman from Cleburne, to make provision for arrangements to have the Convention opened with prayer, the Chair will appoint on that committee Messrs. Howell, Watts and Blackwell.

Under the resolution to consider the proposition to have the proceedings of this Convention stenographically reported, the Chair will appoint on that committee Messrs. Oates, Pillans, Merrill, Browne, Foster, Hood, Ashcraft, and Weatherly.

The Committee on Rules: Including the Chair. Messrs. Smith, Cunningham, Lomax, Harrison, O'Neal, deGraffenreid, Browne, J. Thomas Heflin.

MR. O'NEAL (Lauderdale)—I desire to offer a resolution.

The Secretary read the resolution:

Resolved. That the privileges of the Convention be extended to General Joseph Wheeler, and that he be invited to a seat on the floor.

Seconded by Mr. deGraffenreid. (Applause.)

MR. LOWE (Jefferson)—Mr. President, if an exception is to be made, I wish to know where it is to stop. I think this Convention, having been sent here by the people of Alabama in their sovereign capacity and charged with their sovereign will, ought to discharge its deliberations with closed doors. If one exception is to be made, there will be other exceptions requested. If we except one, we will be asked to except others. I am as willing to pay tribute to the distinguished soldier and to the distinguished citizen as any other man, but I believe in law and order. I believe in observing law. I do not believe in the "grandfather clause," nor do I believe in making special exceptions of any one. If of any, then of all. Mr. President, I move therefore, and I do so in deference, but I move to lay the resolution on the table.

Seconded by Mr. Samford.

MR. O'NEAL (Lauderdale)—Will the gentlemen withdraw the motion for a moment?

MR. LOWE (Jefferson)—Certainly; I withdraw the motion entirely.

MR. CUNNINGHAM—I rise to a point of order.

MR. O'NEAL—I was in hopes no objection would be made to this.

THE PRESIDENT—If you desire to reach it that way a motion to suspend the rules would be in order.

MR. O'NEAL (Lauderdale)—I simply desire to say that General Wheeler is not only one of the most distinguished citizens of Alabama—

THE PRESIDENT—The resolution will be referred unless there is a motion to suspend the rules.

MR. O'NEAL (Lauderdale)—I move that the rules be suspended.

Seconded.

THE PRESIDENT—The motion is—

MR. LOWE—On that question I ask the Chair to state the vote that is required to suspend the rules.

THE PRESIDENT—A two-thirds vote.

MR. LOWE (Jefferson)—I should like to amend by adding other men who are quite as distinguished. I would like to amend by adding some other names,—

THE PRESIDENT—The question is on the motion to suspend the rules.

The question was put and a division called for, and the secretary proceeded to count the vote.

MR. LOWE (Jefferson)—Mr. President, I would like to ask the number voting aye?

THE PRESIDENT — We will announce it as soon as the negative vote is taken.

The vote resulted 76 yeas and 31 nays.

So the motion was carried.

THE PRESIDENT—The rules are suspended; the question is on the passage of the resolution.

MR. LOWE (Jefferson) — I offer an amendment, that the name of the Honorable Jesse F. Stallings, and the names of all the other members of Congress be added.

MR. LONG (Butler)—I take the liberty of withdrawing the name of Hon. Jesse F. Stallings.

MR. deGRAFFENREID — The motion has not been seconded.

MR. LOWE (Jefferson)—Members and ex-members who are in the city.

Seconded.

MR. LONG (Butler)—I wish to say Mr. President, if Mr. Stalling's name is put before this convention for this purpose, it is without his knowledge or consent. He lives at my town, and he is in Greenville to-day.

THE PRESIDENT—The question will be on the adoption of the amendment.

MR. BULGER—I move to lay the amendment on the table.

Seconded.

MR. LOWE (Jefferson)—I suppose the gentleman then will grant me the right to be heard. I withdrew a motion to lay on the table. If you want to force this fight, I am ready for it.

THE PRESIDENT—The question is on the motion to lay the amendment on the table.

The motion to table was carried.

MR. LOWE (Jefferson)—The question recurs Mr. President, upon the original motion—

MR. DENT—I rise to a point of order—

THE PRESIDENT — The Chair rules that lays the whole proposition on the table.

MR. deGRAFFENREID—I move for the suspension of the rules, and that the courtesies of the floor of this Convention be extended to General Wheeler. Seconded.

MR. LOWE (Jefferson)—Mr. Chairman, I move to amend that motion by adding all the members and ex-members of Congress from Alabama.

THE PRESIDENT—The motion is to amend by adding all the members and ex-members of Congress from Alabama.

The question was put. The Chair announced the noes seem to have it.

MR. LOWE (Jefferson)—I demand a decision, Mr. Chairman.

The vote was taken and resulted, 20 yeas and 87 noes.

MR. deGRAFFENRIED—I call for the previous question, Mr. President.

THE PRESIDENT—The previous question is called for. I recognize the gentleman from Jefferson.

MR. LOWE (Jefferson)—I am discharging what I believe to be a duty, when I protest against the action as indicated by this vote.

THE PRESIDENT—The Chair would rule that a motion for the previous question is not debatable.

MR. LOWE (Jefferson)—I caught the eye of the Chair and the Chair caught mine, and the Chair recognized me. If a gag law is to be established, we may as well start right now! (Hisses.) Geese hiss; no honest man does it! The coward hisses, but no decent man does—

THE PRESIDENT—The gentleman is not in order. The previous question has been called for. The gentleman from Jefferson will please take his seat.

MR. LOWE—I wish to say I caught the eye of the Chair—

THE PRESIDENT—The gentleman from Jefferson is out of order. The question is shall the motion be now put.

MR. LOWE (Jefferson)—I yield to superior force.

THE PRESIDENT—The question is, shall the main question now be put.

Calls for the question.

The question was put and carried unanimously.

THE PRESIDENT—The question now is on the adoption of the resolution offered by the gentleman from Hale.

The question was put and carried.

MR. ROGERS (Lowndes)—I have a resolution which should be referred to the Committee on Rules.

The Secretary read the resolution:

Resolved, That this Convention adjourn regularly at 1 o'clock p. m.

THE PRESIDENT—The resolution will be referred to the Committee on Rules.

MR. SAMFORD—Mr. President, I am informed that there are a number of delegates present who have no seats provided for them, and for the purpose of providing seats for the members who have none, I move that the Door Keeper be instructed to provide seats.

THE PRESIDENT—The Chair will instruct the Door Keeper to provide seats for all members.

MR. LOMAX—I would like to add—

MR. LOWE (Jefferson)—I wish to give notice that in the morning hour, under the rules of the House, I shall move to reconsider the vote by which General Wheeler has been accorded the privilege of the floor.

MR. LOMAX—I offer an amendment to the motion of the gentleman from Pike (Mr. Samford)—

MR. SAMFORD—Mr. President. I will suggest that the Door Keeper be instructed to provide lesks for the members as well as seats.

THE PRESIDENT—The Door Keeper will provide desks and seats for all members that are not now provided with them.

MR. BULGER—Mr. President, I desire to offer a resolution.

The Secretary read the resolution:

Resolved, That whereas the Honorable John B. Knox, the distinguished President of this Convention, has delivered a most able and patriotic address at the opening of the permanent organization of the Convention, outlining our plans, policies and duties, looking to the framing of a new Constitution for our State, therefore be it

Resolved, That the Secretary of this Convention be and is hereby directed to have printed for the use of the members of the Convention five thousand copies of the address.

THE PRESIDENT—The resolution will go to the Committee on Rules.

MR. OATES—I wish to offer a resolution.

The Secretary read the resolution:

Resolved, That in order to expedite the business of this Convention, the President be authorized to appoint fifteen standing committees as follows, to-wit: First, a Committee on Bill of Rights of eleven members; second, a Committee on State and County Boundaries, of eleven members; third, a Committee on Legislative Department, fifteen members; fourth, a Committee on Judiciary Department, fifteen members; fifth, a Committee on Executive Department, fifteen members; sixth, a Committee on Suffrage and Elections, twenty-five members; seventh a Committee on Representation, fifteen members; eighth, a Committee on Taxation, fifteen members; ninth, a Committee on Education, fifteen members; tenth, a Committee on Railroads and Canals and Private Corporations, fifteen members; eleventh, a Committee on the Militia, Banks and Banking and Exempted Property, thirteen members; twelfth, a Committee on Oaths of Office, Miscellaneous Provisions, Mode of Amending the Constitution, thirteen members; thirteenth, a Committee on Schedule of the Constitution, and upon Mileage and Pay of Delegates and Incidental Expenses, nine members; fourteenth, a Committee on Rules and Order of Business, nine members, of which the President of the Convention shall be the Chairman; fifteenth, a Committee on the Order, Consistency and Harmony of the Whole Constitution, to consist of the Chairmen of the first thirteen committees named above.

THE PRESIDENT—The resolution will be referred to the Committee on Rules.

MR. SMITH (Mobile)—I move that the Convention take a recess for twenty minutes to allow the Committee on Rules to meet.

Seconded.

MR. WILLETT—Before that motion is put, I desire to ask the unanimous consent that the Journal be corrected in one respect.

THE PRESIDENT—The gentleman will state it.

MR. WILLETT—It states that the Convention was opened with prayer by the Reverend Patterson; that is bad form, and I ask that the Journal show that it was the Rev. Mr. Patterson, or the Rev. G. W. Patterson.

THE PRESIDENT—Unless there is objection, the Journal will stand corrected. We are grateful to the gentleman for calling attention to the matter.

MR. LONG (Walker)—I desire to offer a resolution.

The Secretary read the resolution:

Resolved, That the Door Keeper be instructed to procure keys for the desks.

THE PRESIDENT—You will pardon the chair for making some announcements.

A caucus of the Democratic members of the Convention is hereby called to be held in this hall at 4 o'clock p. m. this day. Signed, Robert J. Lowe, Chairman.

MR. HEFLIN (Chambers)—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. HEFLIN (Chambers)—I do not think that the motion of the gentleman from Mobile has been put.

THE PRESIDENT—It was merely suspended to make some announcements. The resolution of the gentleman from Walker will not be in order at present, while the motion of the gentleman from Mobile (Mr. Smith) is pending. The question is on the motion of the gentleman from Mobile for a recess of twenty minutes.

MR. BROWNE—I wish to ask the gentleman from Mobile where he desires the Committee on Rules to meet?

MR. SMITH (Mobile)—In the Senate Chamber.

The motion to recess for twenty minutes was put and carried.

The Convention was called to order at the end of the recess, Mr. Wilson (Clarke), in the Chair.

MR. KNOX—The Committee on Rules desires to submit a partial report.

Report of Committee on Rules:

We, the Committee on Rules, beg leave to submit the following partial report:

First—That subordinate officers shall be as follows: Ten pages, two messengers, one gallery door keeper, one enrolling and engrossing clerk, to be appointed by the President of the Convention.

Second—The Secretary may, from time to time, with the approval of the President, appoint such additional clerical assistance as may be necessary.

Third—The following shall constitute the standing committees of the Convention:

(1) Rules of which the President shall be chairman, to be composed of nine members and which shall have the right to report at any time.

(2) Judiciary, to be composed of nine members.

(3) A committee on the Order, Consistency and Harmony of the Constitution, to be composed of twenty-five members.

(4) A committee on Suffrage and Election, to be composed of twenty-five members.

(5) A committee on Legislative Department, to be composed of nineteen members.

(6) A committee on Local Legislation, to be composed of nineteen members.

(7) A Committee on Education, to be composed of nineteen members.

(8) A committee on Taxation to be composed of nineteen members.

(9) A committee on Executive Department, to be composed of fifteen members.

(10) A committee on Preamble and Declaration of Right, to be composed of fifteen members.

(11) A committee on Corporations, composed of fifteen members.

(12) A committee on Representation, composed of fifteen members.

(13) A committee on Education, composed of fifteen members.

(14) A committee on Militia, to be composed of fifteen members.

(15) A committee on Banks and Banking, to be composed of fifteen members.

(16) A committee on Municipal Corporations, to be composed of fifteen members.

(17) A committee on State and County Boundaries, to be composed of fifteen members.

(18) A committee on Impeachments, to be composed of fifteen members.

(19) A committee on Amending the Constitution and Miscellaneous Provisions, composed of fifteen members.

(20) A committee on the Journal, composed of five members.

(21) A committee on Schedules, Printing and Incidental Expenditures, to be composed of nine members.

Fourth—A majority of each Committee shall constitute a quorum.

Fifth—All committees shall be appointed by the President.

Sixth—The following committees shall be entitled to a clerk each, to be appointed by the Chairman thereof, respectively, whenever in the opinion of the Chairman of either of the said committees it may be necessary: Rules, Judiciary, Order, Consistency, and Harmony of the Constitution, Suffrage and Elections, Education and Corporations.

Seventh—It shall be the duty of the pages when the Convention is not in session, and when directed by the President, to serve the Committees.

The President here resumed the Chair.

THE PRESIDENT—The question is upon the adoption of the report of the Committee on Rules.

MR. HOWELL—Mr. President, it is with a good deal of embarrassment that I would object to any part of that report. I have had an extended experience in the clerical work of the General Assembly, and I would amend that report by striking out where it provides for an enrolling and engrossing clerk of the Convention, which will necessitate the appointment of two men, and make it read so that only one man will be appointed.

THE PRESIDENT—The gentleman from Cleburne will please reduce his resolution to writing.

MR. KNOX—The report only provides for one. One man is to do both.

MR. HOWELL—That's all right.

MR. REESE—I move the previous question.

THE PRESIDENT—The question is on the adoption of the report as read.

The question was put and carried.

MR. deGRAFFENREID—Mr. President, as you see, this is only a partial report from the Committee on Rules. The committee will probably be able to make another report tomorrow. In addition to that it will be almost impossible for this Convention

to do anything until the President has announced the committees; for that reason I move that this Convention do now adjourn until 11 o'clock tomorrow.

THE PRESIDENT—Please withdraw that for a moment.

MR. deGRAFFENREID—For one moment only, for the purpose requested by the President.

MR. OATES—I merely wish to make an announcement.

The announcement was sent to the Secretary's desk.

THE PRESIDENT—The Chair will, under the resolution reported by the Committee on Rules, announce the following pages, which the Secretary will read.

The Secretary read:

Masters Long, Eyster, Reese, Haley, Gaston, Tutwiler, Wilson, Driver, West, Allen; messengers, King and Bulger; enrolling clerk, Mrs. L. W. Francis; door keeper of the gallery, W. H. Mangum.

MR. ROGERS (Sumter)—Mr. President, I desire to offer a resolution to be referred to the proper committee.

The Secretary read the announcement of Mr. Oates for a meeting of the special committee on a stenographic report of the proceedings.

THE PRESIDENT—Read the resolution of the gentleman from Sumter.

The Secretary read the resolution:

Resolved, That the Secretary of this Convention procure and have printed in consolidated form, for the use of its members, five hundred copies of those sections relating to suffrage, in the Constitutions of the following States: Connecticut, Massachusetts, Maryland, Pennsylvania, North and South Carolina, Mississippi, Louisiana, California and Utah.

THE PRESIDENT—This resolution will be referred to the Committee on Rules.

MR. deGRAFFENREID—I now renew my motion to adjourn until tomorrow morning at 11 o'clock.

Motion was put and carried and the Convention thereupon adjourned.

FOURTH DAY

MONTGOMERY, ALA.,
May 24, 1901.

The Convention was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Andrews.

The roll was called and showed 137 delegates present.

Leaves of absence were granted for today to Messrs. Macdonald, Almon and Lowe.

MR. WATTS—I have a resolution which I desire to have read and referred to the Committee on Rules.

The resolution was read as follows:

"Be it resolved, That with the exception of the delegates, officers and employees of the Convention, newspaper reporters and those especially invited no one shall be permitted on the floor of the Convention; and the Door-Keeper is instructed to enforce this resolution."

The resolution was referred to the Committee on Rules.

The Journal of yesterday was read, corrected and approved.

MR. JACKSON—I desire to offer a resolution.

The resolution was read as follows:

"Resolved, That 500 copies of the platform adopted by the State Democratic Convention of Alabama on April 19, 1901, be printed and placed on the desks of the members of this Convention."

The resolution was referred to the Committee on Rules.

MR. LONG (Walker)—I have a resolution:

The resolution was read as follows:

"Resolved, That 500 copies of the present Constitution of the State of Alabama as annotated in the Code of Laws of Alabama, be printed in pamphlet form for the use of members of this Convention."

The resolution was referred to the Committee on Rules.

MR. REESE—I desire to offer a resolution:

The resolution was read as follows:

"Whereas, More than nine-tenths of the members of this Convention have prior to their election pledged the people of Alabama

that no new Constitution would be adopted without first submitting the same to the people for ratification. Now therefore be it

"Resolved, That such Constitution as may be adopted by this Convention shall be submitted to the qualified voters of Alabama for ratification."

MR. REESE—I move a suspension of the rules and the adoption of that resolution.

The Delegate demanded the yeas and nays but immediately withdrew the call.

MR. WHITE—I think if the resolution were given as the sense of this Convention it would be better.

The suggestion was accepted.

THE PRESIDENT—Proceed with the roll call.

MR. REESE—I withdraw the call for the ayes and nays.

MR. PILLANS—I suggest that the gentleman should take off the preamble. The body of the resolution may be perfectly acceptable to many delegates. It certainly is to me, but the preamble is not at all. I make the suggestion to the mover of the resolution.

THE PRESIDENT—Does the gentleman acquiesce in the suggestion of the gentleman from Mobile?

MR. REESE—No, sir.

A vote being taken the rules were suspended.

THE PRESIDENT—The question is now on the adoption of the resolution.

MR. CUNNINGHAM—I simply rise to ask for ayes and noes on that resolution. Nothing will give greater emphasis to the will of this Convention than aye and no vote upon that question and nothing is more needed today in the State of Alabama than a declaration upon this question. I call for the ayes and noes.

MR. WATTS—I move to strike from that resolution the preamble.

MR. REESE—We have been entrusted with extraordinary power by the people of Alabama. In order to secure this the Democratic party which sent us here made pledges for most of the men that are here today. That was done I know for at least nine-tenths of them. The Democratic campaign committee that conducted the fight for this Convention permitted that to be done and if there is a Democrat in this House that has ever denied the authority of that committee to pledge him, I have never heard of it. Let us not only deal with the people with the appearance of fairness and honesty but let us actually deal fairly and honestly with them.

This is no place for demurrers or special pleas or legal quibbles. We are dealing with a plain, honest, straightforward people and let us deal with them in a straight-forward manner. The preamble to the resolution is unquestionably true and I defy any gentleman to say it is not. If it is a truth, let us say it is a truth. Let us deal with the people fairly and squarely and if there is any man in this Convention who does not think that the promises made to the people ought not and will not be carried out, let him say so now and I for one am ready to say that if the Convention refuses to adopt this resolution I will vote for an immediate adjournment of the convention.

MR. WATTS—The gentleman totally misapprehended the object of my motion. I am here to keep every syllable of the provisions of the Democratic platform. I am here to vote to submit this to the people of Alabama for ratification. I am not only pledged to it as a Democrat, but I believe it is my duty as a man because I am sent here as an agent and it would be a new doctrine in law that an agent should refuse to submit to his principal the ratification of his acts and I am in favor of adopting this resolution, but I do not think the preamble is necessary and I, therefore, move to strike it out.

MR. DENT—It seems to me that the question would come with better grace by not referring to the fact that our hands were tied by previous pledges. For one, I agree heartily with the gentlemen who have spoken in favor of the submission of whatever constitution may be adopted by this body back to the people, but I want it to come as the voluntary expression of the delegates of Alabama to the Convention without any reference to previous pledges and therefore I shall be compelled to vote for the motion to strike out.

MR. JONES (Montgomery)—If my friend from Dallas will permit me, there is just one suggestion upon which I hope he will withdraw his preamble. I am a partisan when partisan occasions demand it, but I have regretted to hear in this convention so many allusions to the Democratic party. We have among our membership some fifteen or twenty gentlemen who are Populists and Republicans. I don't want to put them in the attitude of voting for this resolution because the Democratic party has promised or demanded it, and for that reason I hope the gentleman from Dallas will agree to strike out the preamble.

MR. REESE—I will consent to withdraw the preamble.

MR. LOMAX—I offer a substitute for the resolution.

The substitute was read as follows:

"Resolved, That it is the sense of this convention that all the pledges of the Democratic party made in its platform adopted April, 1901, including that the constitution adopted by this con-

vention shall be submitted to the people, shall be carried out and fulfilled."

MR. BROOKS—I believe it is the sense of the convention that the original resolution be passed as originally submitted, and I, therefore, move the previous question on the original measure and the substitute.

MR. WALKER—I move to lay the substitute on the table.

MR. REESE—A parliamentary inquiry: Have we any rules except general parliamentary laws?

THE PRESIDENT—Only general parliamentary rules.

MR. REESE—Then if the motion to table is carried, will not that table the whole matter?

THE PRESIDENT—If the motion to table the substitute is carried that will table the whole proposition.

MR. WALKER—I understand that, but the original proposition can be taken from the table.

MR. BROOKS—My motion was for the main question on the original resolution, and I would ask a ruling from the chair as to whether that has not precedence of a motion to lay on the table.

THE PRESIDENT—The chair would rule that it would have.

MR. BROOKS—Then I would insist on that motion.

THE PRESIDENT—The motion for the previous question had precedence of the motion to table.

A vote being taken, the motion for the question was carried, and a further vote being taken, the substitute of the delegate from Montgomery (Mt. Lomax) was lost.

THE PRESIDENT—The question is now on the resolution of the delegate from Dallas, with the preamble withdrawn, and the clerk will please read it.

The resolution was read as follows: "Be it resolved, That it is the sense of this convention that such constitution as may be adopted by this convention shall be submitted to the qualified voters of Alabama for ratification."

The roll was called and the vote was unanimous for the adoption of the resolution.

General Harrison—I desire to offer a resolution. It is of a privileged character, and I ask an immediate consideration.

The resolution was read as follows: "Resolved, That when this convention adjourns today, it adjourn to meet at 12 o'clock m., on Monday next."

GENERAL HARRISON—In support of that resolution I desire to state that it is absolutely necessary that the President should have that time in which to prepare his committees and also necessary for the Committee on Rules to complete its labors in perfecting rules for the convention. Tomorrow being Saturday, without committees and without rules the day would be practically lost and I therefore trust the resolution will be adopted.

THE PRESIDENT—Under the rules that would have to go to the Committee on Rules.

GENERAL HARRISON—I move to suspend the rules and that the resolution be put on its passage immediately.

MR. CUNNINGHAM—I make the point of order that a motion to adjourn to a certain day is a privileged motion and it is not necessary to suspend the rules to take a vote on it.

THE PRESIDENT—I believe the gentleman is correct and that the Chair is wrong.

MR. ASHCRAFT—I move to amend the resolution by substituting until Tuesday noon. A recess until Monday will be absolutely useless to a large number of the delegates.

Dissent being audibly expressed the amendment was withdrawn and a vote being taken the resolution of General Harrison was adopted.

On motion of General Oates, seconded by Mr. Pettus, Senator E. W. Pettus was invited to the privileges of the floor of the convention. On an amendment of Mr. O'Neal Senator John T. Morgan was likewise honored.

MR. PETTUS—I desire to offer a resolution. Be it resolved, That in its action, this convention shall adhere to and be governed by the act of the General Assembly approved December 11, 1900, providing for this convention.

Referred to Committee on Rules.

THE PRESIDENT—The Chair desires to state that in ruling a moment ago on the motion of the gentleman from Madison on the point of order made by the gentleman from Mobile, I unintentionally committed an error in ruling that a call for the previous question has precedence of a motion to lay on the table. We are proceeding under general parliamentary law and in my opinion the motion to lay on the table would have precedence of a motion for previous question and the Chair unintentionally made an error against the gentleman from Madison.

GENERAL OATES—I desire to submit a report of a committee.

The report was read as follows:

REPORT OF SPECIAL COMMITTEE

Your committee to inquire into the desirability, practicability and probable cost of obtaining a full and accurate stenographic report of the proceedings of this convention, make the following report.

We called before us the stenographers applying for the contract and received from them such information touching said work as was obtainable.

Mr. McGauly submitted the following proposition, to-wit:

Montgomery, Ala., May 21, 1901.

Alabama Constitutional Convention,
Montgomery, Ala.

Gentlemen—I would respectfully submit the following proposition:

I will undertake to furnish an accurate verbatim stenographic report of each day's proceedings of the Constitutional Convention, and deliver one thousand (1,000) printed copies thereof to the Secretary of the Convention by 9 o'clock on the morning of each day succeeding that on which such proceedings were had, for the sum of seventy dollars ($70.00) per diem, for whatever number of days the convention may remain in session. Should the convention not convene on any day, i. e., Sundays and recess days no per diem charge to be made.

In consideration of the per diem compensation quoted above, I will undertake to associate with me a sufficient number of skilled and experienced stenographers, men in every way competent to perform this class of work, who will act in relays—succeeding each other at short intervals throughout the session; (2) a staff of typewriters to whom the stenographers will dictate their notes; (3) reliable and responsible printers with ample facilities to print and furnish one thousand copies of the proceedings each morning by 9 o'clock.

Very respectfully,
Pat McGauly.

Messrs. Hoffman and May submitted the following proposition, to wit:

Montgomery, Ala., May 23, 1901.

To the Committee having charge the question of stenographically reporting the proceedings of the convention, etc.:

Gentlemen of the Committee—We beg to submit for your consideration two plans upon which we propose to report the proceedings.

We are informed by the manager of The Advertiser that it will print daily in a separate supplement of this newspaper the full proceedings of the day before for the sum of $25 per day, and we are authorized to make the proposition to this committee coming from him. He will furnish the convention for this sum two hundred copies of the supplement free of charge.

If it is desired to have this done, we will begin delivering copy to him at 1 o'clock each day, and thereafter, with sufficient rapidity, copy will be delivered to him to keep the printers busy and enable the same to have the same printed in the morning paper.

We will do this for twenty-five hundred dollars for the first thirty working days of the convention.

Should the session of the convention extend beyond that time, we will perform the same work during the additional time over thirty days for the sum of $425 per week or fraction thereof.

Should it not be desired to print these proceedings daily as above outlined, we will report the proceedings and lay on the table of the secretary each morning a complete and accurate report of the previous day's session for $2,250 for the first thirty working days of the session, and $350 per week or fraction thereof in excess of that time.

As there are others seeking this contract, and as the work will not be of any service to the convention or State unless absolutely accurate, we are willing to submit the following test: That our corps of reporters and the corps of any other applicant or applicants taking proceedings on any day named by the committee, and then let the committee order both corps to transcribe the proceedings, or to come before the committee and read from short-hand whatever may be desired, and let the contract be awarded the corps showing the greatest facility in reading or making the best transcript as the case may be.

We wish to assure the committee that we have a corps of reporters whose ability to do this work cannot be questioned, and we are so well satisfied ourselves on that point that we will gladly submit to the severe test of ability above proposed if it is required.

We are ready to name our corps of reporters to the committee, and would suggest the advisability of having other applicants do the same, that the committee may judge as to whether any particular corps can or cannot do the work in a satisfactory manner.

If either of these propositions is accepted, we request the committee to recommend the appointment of F. O. Hoffman of Mobile and E. L. May of Montgomery, jointly, as the official stenographers.

Respectfully submitted,

Francis O. Hoffman,

E. L. May.

This last proposition, including the printing, would amount in the aggregate to $3,100.00 per month of twenty-six working days, or for thirty days as set forth therein.

The proposition of Mr. McGauly for the same length of time or twenty-six days would cost $1,820.00.

No test was made by the committee as to the capacity or efficiency of the bidders, as we had no opportunity in our limited time, but, presuming that each of them were capable, and to fix their responsibility for doing the work accurately, we recommend that the successful bidder be required to give a bond payable to the State of Alabama, to be approved by the President of this convention, in the sum of $1,500.00, and conditioned that he perform his duties as such reporter according to the terms of his contract.

Your committee recommend a full and complete report of the proceedings of this convention, and as Mr. McGauly's proposition incurs much less expense to the State than that of Messrs. Hoffman and May, the committee recommend that it be accepted by the convention.

Should the aforesaid report be adopted by the convention, your committee recommend the adoption of the following proposition:

Resolved, That the President of this convention be, and he is hereby, authorized to enter into a contract with Mr. Pat McGauly to furnish daily a correct and full stenographic report of the proceedings of this convention, and to require him to enter into bond with good surety in the penal sum of $1,500.00, payable to the State of Alabama, for the faithful performance of his contract. And any substantial failure on the part of said McGauly to comply with his said contract, shall be deemed a breach of said bond.

Your committee ask the adoption of this report, and that they be discharged.

Wm. C. Oates, for the Committee.

GENERAL OATES—The report sufficiently explains itself unless some delegate desires further explanation. I move its adoption. One member of the committee, the delegate from Lauderdale, dissents from it in part and desires an opportunity to present his minority report.

MR. ASHCRAFT—I present a minority report.

The delegate read his minority report as follows:

Mr. President and Gentlemen of the Convention:

The undersigned member of the special committee appointed to consider the propriety and expense of a stenographic report of all the proceedings of this Convention, feels constrained to dissent from the opinion of the majority and begs leave to submit the following minority report:

The journals of this Convention will contain a full record of all its official proceedings. The stenographic report will contain in addition to these proceedings, a full report of all speeches and debates. The majority claimed three advantages for a report of these speeches and debates.

First—It is claimed that they will throw great light in the future upon the true interpretation of the Constitution. I cannot concur in this view. We and those who are to come after us will yet be wiser than we now are. We will write a new Constitution with patriotic purposes based upon the highest reasons within our grasp and make the noblest uses of it we can. Hereafter the same patriotism, in the light of new and happier experiences, will find higher reasons for our action, and nobler uses for our work. When this work is tested before the Supreme Court of the United States, we do not want that body to search for light amid the darkness of the debates on the 14th and 15th amendments. Now, will we want it judged by the bitterness which the sense of our ever pressing injury will be sure to infect our debates. We are going to approach right conclusions but we will sometimes be driven from the straight course by the irresistible storm.

Second—It is claimed by the majority that the publication of the speeches and debates will be of great value in educating our people to the needs of a new constitution and the reasons for the particular form it shall take. I do not believe it will possess this value. The press of this State is in favor of this movement and, if we give good reasons for our course, those reasons will be promulgated and given the widest circulation by our patriotic editors. If we give bad reasons they will be charitably censured, and the evil influence restrained. Again the great questions before the Convention will be chiefly determined in the committees, and it is urged by some that the main question we are here to determine should be considered in executive session; while I do not commit myself to this proposition, I mention it to show the anxiety felt as to the nature of the arguments which may be advanced.

Third—The majority claim that a knowledge of the fact that every word is to be recorded, will lend dignity and solemnity to the discussions. This does not comport with my limited observations of men. If there are any who are rash or light-minded, they are, of all persons, least conscious of that fact, and lightly rush in, while those who are conservative and conscious of the weight of responsibility hesitate. I believe this full report will repress discussion by this latter class, and will increase it by the former class, if any such are members of this Convention.

While I am satisfied that the arrangement planned by the Committee is the most advantageous which can be had, I do not believe the proposed investment is the best use that can be made of the money for the good of the people.

With the profoundest regret, I am, for reasons briefly stated above, compelled to differ from the able and patriotic gentlemen who compose the majority, and to report that I do not believe that it is expedient for this Convention to cause a stenographic report of its proceedings to be made and to incur the expense thereof.

John T. Ashcraft,

Member of the Committee.

MR. ASHCRAFT—I move that the minority report be substituted for the report of the majority.

MR. COBB—I move that this matter be taken up Monday next directly after the reading of the journal.

A vote being taken, this motion was lost, the vote on the division standing, 29 yeas, 82 nays.

GOVERNOR OATES—The report of the committee was unanimous with the one exception. I believe that a correct report of the proceedings of this convention will be important in many respects, and it is in keeping with the times. Nearly all conventions and many legislative bodies in this day and time have stenographic reports of their proceedings. It seems that my friend, the delegate from Lauderdale, is fearful that some gentleman will, in the course of debate, say something unwise or criticizable. If any gentleman does that the responsibility is with him as an individual. There never was a deliberate body in session for any length of time that some one did not give utterance to sentiments that were not acceptible to a majority of the body politic. That is human nature, because men differ. Men see things in different lights. Then is this convention prepared, because my friend is apprehensive that some one may say something that it were better to leave unsaid—are they going to undertake to hide our proceedings? Why, sirs, ours is a government of the people. We are here as their representatives, and they wish to know the business we transact and the views of the different members upon the different propositions. My friend's position that much that is done here ought to be transacted in private is applicable to the committees, for the committees, as a rule, sit in private and consider all these grave questions. When they make their reports, those reports are to be considered by the convention in public; and every gentleman has the opportunity of proposing amendments to such reports and of expressing his views thereof. And that is consistent with every well-informed gentleman's idea of a free and full discussion that every delegate should be allowed to express his opinion of everything before this body and to conceal nothing. And I think I but utter the sentiments of every member of your committee except my friend, and seems to me that in this view he is certainly mistaken. We have, sir, the reports taken in extenso and accurately of a large majority of the Constitutional Conventions that have been

held within the last twelve or fifteen years, and nobody has suffered by that or anything in them, unless it be some one who saw proper to utter something he had better left unsaid. Ours being a government of the people, and our people being capable of passing upon everything, I don't think any gentleman should be apprehensive of anything that possibly may be uttered by any delegate to this convention, whether it be under review in the Congress of the United States or before the Supreme Court of the United States. My friend's apprehension seems to be that whatever constitution is framed here will have to undergo the ordeal of passing the Supreme Court of the United States. I do not concur in that view. I have confidence in the wisdom and the learning of the gentlemen composing this convention to believe—in fact, to know that they will, pursuing the platform, or at least one plank of it that was adopted, put nothing into the new Constitution in conflict with the Constitution of the United States, and that, therefore, there will be no necessity for our new Convention to undergo that ordeal. I have no idea that it will be so framed that any one can claim that it is in violation or any provision of it, is in violation of the Constitution of the United States, and, therefore, it could not come before that body. I think my friend's apprehensions are not well founded, and believing that the delegates composing this Convention are intelligent gentlemen I would like to preserve the arguments and reasons given in support of or in opposition to any proposition that may be presented, believing that with the small expense incurred because the proposition of Mr. McGauly the acceptance of which the Committee recommends is remarkably reasonable, very low, in fact, I had not thought it was possible that we could have gotten the reports made and printed so cheaply. Believing thus, I think the Convention is certainly prepared to adopt the report of the Committee and will, therefore, vote down the proposition of my friend to substitute his minority report for the report of the Committee.

MR. SOLLIE—I rise to favor the report of the majority of the Committee in this case. This Convention is entering upon a history-making event in Alabama. We have something approaching the population that the country had when the first Constitution of the United States was framed. Alabama continues to grow in importance and her resources seem to be well nigh inexhaustible. We who take the perspective and undertake to see what there is in the future for Alabama, necessarily see before us a great and glorious career for our State. Taking its growth in the past, its history up to the present, whatever touches the entire State of Alabama, necessarily is dear to all Alabamians. I remember in my own experience that when I take up questions dealing with the Constitution of the United States, especially when I come to the deep constitutional questions down in the late decisions of our courts, the language there is inadequate to fully express all that occurred and I long for some information that does not appear on the face of the record.

There are in this Convention gentlemen of capacity, gentlemen of experience and legal learning whose arguments bearing upon the vital questions which must come up in connection with the Constitution we are about to frame will of very necessity be of the greatest benefit to persons reading the Constitution to be made by this Convention.

I have sought with profit and benefit, Mr. Chairman, such rays of light as may be found to fall upon our National Constitution from looking into the debates, into this history of what occurred in our National Convention when our National Constitution was first framed. Wherever there is a question doubtful in its character or difficult of understanding, the language of which is inadequate and does not give fully the meaning, the debates will throw light on the proposition to the searcher after wisdom.

On that idea alone, the light that will be thrown on the Constitution to those who are studying it, the publication of these debates are of great and inestimable value.

Then taking up the minority report, it assumes that there are men who sit in this hall who do not stop to weigh the force of the remarks made by them. I cannot say whether that assumption is founded upon facts which justify it. If it is, I regret it, but conceding that it is true, considering the intelligence we know we have here, such will be the exception, not the rule. I know that the majority of the speeches that will be made here will be such that our people may read with edification. I know that nearly all of them will be speeches of which we shall not be ashamed.

So from whatever standpoint it is viewed, I saw the proposition to report the proceedings as has been said by a majority of the speakers is highly proper. Why should not the State of Alabama stand in the fore front of progress whenever the question of progress arises.

It is a fact well known to all well-informed persons that Conventions meet, assemblies meet whose proceedings are to become historic, whose actions are to involve the highest dignity and best judgment. And the proceedings of such bodies are looked after and preserved with care.

I favor the majority report and trust that it will be adopted.

MR. LONG (Walker)—I rise to favor the minority report. I believe we should have a record of what we do but I do not believe we should have a record of what we say. I do not think it is right and just to any of the members on this floor to have these speeches recorded so that the Colored Cooks Union can go searching through them in the years to come and get up a labor strike and refuse to allow any of its members to take employment in any house, the head of which voted in favor of disfranchising the negro. Suppose some delegates were to say that no one

should be allowed to vote except white men and Caucasians. Now, I believe violations of the Fourteenth and Fifteenth Amendments are but political crimes, and it would take very little for me to vote for an amendment in the suffrage clause that nobody but white men should vote. Of course, the penalty of that would be to cut down our representation in Congress and I do not believe that would be good reading when the Supreme Court of the United States comes to pass on the constitutionality of this Constitution, and a partisan Supreme Court at that. I can see no good reason why we should have reports of everything that is said in this Convention. There is no record that this was done in the last Constitutional Convention and I cannot see any reason why it should be done now. I am not afraid to speak my sentiments at any time but I do not think we should have a political record there in black and white that some of the delegates will have to be dodging for twenty years to come. I think the minority report should be adopted, I shall vote for it and I hope a majority of the delegates will do the same thing.

MR. MERRILL—There was some apprehension on the part of the people before the Convention was called that there was something hid, that there was something out of sight, that some mine would be sprung and that some person would be injured thereby.

It was my purpose in the discussion of this matter before the people, to take the people into my confidence and I think that that should be done in the fullest and most complete way. The way to do that is to have every word said upon this floor spread out and let the people of Alabama see what has been said and done. Then, there can be no doubt hereafter. That controls my remarks more than any other reason. I believe that a full and fair report of everything done and said sent to the people of Alabama will do more to secure the adoption of the Constitution that we shall make than any other one thing that we could do and the cost being small and the reasons great, I think the Convention would act unwisely to undertake to hide what they do under a bushel or anywhere else. Let us take them into our confidence and when you trust the people, you will hereafter be trusted by them.

MR. WEATHERLY—Mr. President and Gentlemen of the Convention—There are several reasons why I, as a member of this committee concurred in the majority report. In the first place, it ocurred to me that when we met here in Convention we met mainly for the purpose of discussion. It occurred to me that in formulating our actions as a body and crystallizing them into the form of a Constitution that that result would be most largely attended after discussion. Now, discussion implies always, mutual help. It implies a necessity devolving upon those who discuss of aiding each other in every way by reason. And it occurred to me that if the members of this Convention could have placed before

them daily everything that had been done and said on the previous day, especially in matters going over from one day to another that it would be a great aid in oiling and lubricating that machinery which is absolutely necessary to the conduct of this Convention—that machinery which could be termed discussion. That was the first thing that occurred to me.

Another reason was that I thought it was desirable that we should have the utmost publicity in connection with our proceedings at least that part of our proceedings not occurring in the committee. I saw no reason why we should not take the people into our confidence. I saw no reason why we should not show to many of those who had objections to the calling of this Convention, who were suspicious of what we were doing, say here is what we did and here are the reasons for it. We give these reasons and take and examine them. Look into our hearts and see once for all the motives of your agents in acting for you and then when we come to submit our actions to you you have our record.

This is a republican government. There is no such a thing known to us as an alien and foreign body sitting in one place and legislating in secret for people residing in another place. We are a part of them and they are our masters.

Another reason that occurred to me: Some suggestion has been made here by two of the distinguished speakers that have preceded me that there might be some political reason for secrecy, that it might not be diplomatic or wise to publish to the world the reasons which impelled us to adopt the suffrage clause of the Constitution. I for one, gentlemen of the Convention, am not afraid to publish whatever views I may have upon the suffrage to the people of this State or the people of the world and I do not believe that this high-minded and intelligent body will adopt any plan for the regulation of suffrage that they would be ashamed to publish to the civilized world. I believe—I have confidence and trust enough in the members of this Convention to believe that in arriving at their conclusion upon the suffrage they will proceed upon high grounds. They will act efficiently, they will remedy the evil which we were brought here to remedy but they will do it in such a way as that their action will meet with the intelligent approval and moral approbation of their fellow citizens in Alabama and in the nation and of the people of the world, not now but of twenty years from now.

The gentleman from Walker seems to think that twenty years from now some speech that is made in the Convention will be seized upon whereby to criticise the work of the Convention. I believe that what we want is the truth. We need never fear the truth. We shall base our actions on the lines of truth and when we do it, instead of becoming weaker and weaker from day to day, a century from now when the world has grown wiser, when the real reasons that have actuated our sovereign people in meeting

together and solving this crisis have sunk deeper and deeper into the hearts of men until with unanimity they shall say the sovereign white people were right.

MR. CUNNINGHAM—I am in favor of the majority report and in favor of public records. From the time a child first cries until he dies of old age the man makes a record in this world. By that record he is judged by his fellow men, by that record he is to be tried at the judgment bar of Almighty God. I am willing to admit the propriety of concealment in some things, not only the propriety, but the necessity. I am quite sure if the records of the individuals of this Convention in all of the relations of life had been stenographically reported at the time that many things that have been done would have been omitted. Matters that concern us as individuals between ourselves and our Maker, between ourselves and our God, are private matters for which no one suffers and no one is blessed but ourselves. But in public capacities we should go on record not merely as to what we do but as to what we say. Words are the signs of ideas and what we want here is ideas. And if those ideas can be expressed in words, then those words should be taken down that they may be studied.

I for one have no Constitution in my pocket. I do not know that I shall propose a single thing for this Convention. I for one confess that I am incompetent to pass on certain matters. One of those questions is the inhibition of the Constitution of the United States on the question of suffrage. There are gentlemen on this floor who know what this Convention can do, there are gentlemen who do not know. I belong to the latter class and I would like to have an opportunity in my room or in some quiet spot to take up and study these questions that have been submitted by men who are competent to pass upon these questions. It is true that in the enthusiasm of the moment we sometimes say things that we ought not to say. There are perhaps many married men who can recall the time when if they had had stenographic reports of the situation and studied over them they would not have proposed.

Now what we want to do is to be given an opportunity to sift out the wheat from the chaff that we may make flour for the mills that not even the Supreme Court of the United States can afford to deny and to do that we must have an opportunity to study these questions. The cost is of no consequence, much less than I had supposed it could be done for, but whether it can be done for that is not my business. That is the business of the gentlemen who gives the bond, and I am heartily in favor of going on record in this business not only as to what we do, but as to what the motives are that inspire our action and if there is in what is said a shroud of death for the future statesman, it is he who weaves the shroud and if there is future greatness and honors to him that is approved by the people, then by virtue of every American right as a citizen and as an aspirant he has a right to it, and

therefore he should be proud of it. I sincerely hope the majority report will be adopted.

MR. ASHCRAFT—I think I have the capacity and the experience which will enable me to express clearly some of the reasons why these reports should not be made. There is not a man on this floor who believes in the publicity of our actions more than I do. I do not want this Convention to do anything in the dark; but, sir, in order that we shall be known of men, and the purposes which have actuated us during the session of this Convention, it is not necessary that it should be put down in black and white. If we shall be able to say anything which is worth being gathered into the storehouse of the great human heart, then, Mr. President, it will be treasured up here, and the representatives of the press, as the minority report says, will promulgate it and distribute it among the people of the State. If any are so unfortunate as to express those things which are unworthy of guiding human conduct they too will be gathered in, like the tares of old, and consumed in the fires of oblivion. We have no occasion to perpetuate them. I have no desire in the years that are to come to point to any of my fellow citizens and say you made this, and this, and this mistake in the years that are gone by. Now, Mr. Chairman, I believe that the elastic way in which our Supreme Courts have handled the constitutions, not only of the United States, but of the respective States, has enabled them to adjust them to our progressive situation, and I am perfectly willing as the years go by, to have those august bodies review our actions, and search after our motives in the light of the experiences which then surround them, and I believe under those circumstances that they will feel less bound, and less hampered by the ties of the past, if they are left free from these printed reports. But, Mr. President, it has been said that we want a free and full discussion. There are many members on this floor who are not experienced in public debate, who would be glad to stand up here among their fellow citizens and speak out the plain and simple words which move in their hearts, but those men will feel a sense of timidity and diffidence in expressing themselves freely and frankly if their rhetoric, if the form of their expression and all that kind of thing is to be put down to be read and criticised by those who may be willing to lightly treat their course of conduct.

Now, Mr. President, under all the circumstances, the fact that we do not get this matter in the nature of a bound book, but only in the nature of a newspaper supplement; in view of the fact that it will really result in darkness to have laid upon the desk of the members of this Convention a great mass of undigested matter every morning, instead of a revelation of the truth, I think that we ought not to print it. What we want is light today. Those who live after us will receive the light they need. The Journal, which will be kept, the memorandum of those matters which will be found in the daily papers, and the Calendar which this Convention

will probably print, will furnish to us as much matter and as much refreshing of recollection as we will be able advantageously to use, and I therefore, Mr. President, believe that it will be to the interest of this State for the minority report to prevail.

MR. BROWNE—As a member of the Committee, I desire to say a few words in regard to this resolution. I desire to state for the information of the delegates that this proposition to print embraces the same idea as the proposition of the gentleman who did not secure the bid. Mr. McGauly proposes that this printing shall be done by The Advertiser and The Advertiser proposes to place in each copy that it sends out over the State, these proceedings in the shape of a supplement. Now when I was first appointed upon that Committee, I was opposed to the publication of this stenographic report and saw no necessity for it. But it occurred to me that it would be a good plan for us not only to report to out constituents, to those who sent us here, our work, but at the same time to report to them the reasons for our work, and also an explanation of it. The same argument, and the same discussion that convinces the members of this Convention and causes them to adopt or to propose a Constitution, when sent out broadcast to all of our constituents and the people of the State of Alabama, will, if we were properly convinced, in turn convince the people of the State of Alabama and will cause them to ratify the Constitution that we propose.

Those, Mr. President, are the reasons that caused me to change my mind, and to be in favor of a stenographic report when I was at first opposed to it. I do not know now that I would have favored it if it were not for the fact that by this means we get a thousand copies laid upon our desk for our own use, and at the same time we send to all of the people of Alabama every day, a full stenographic report of every thing we do, and the reasons therefor and explanation thereof.

MR. SPRAGINS—The minority report of this committee has not received at the hands of this convention the attention which I think the merit of the controversy entitles it to, and it urges me as a member of this Convention at this time to put in my oar. The members of the majority urge upon this Convention many reasons for the adoption of the majority report. It may be said, sir, with equal truth, that there are many reasons more potent in support of the minority report.

It is said that the public is entitled to a free and untrammeled inspection of what occurs before this Convention, as if the omnipresent newspaper reporter had not found a local habitation and name in Montgomery. The gentleman from Jefferson on my extreme right says in protection of the married man, that if a stenographic report had been preserved of his proposal, that many of us would be sowing our wild oats. To the strangers in this Convention to the gentleman from Jefferson, that is a confession that the

gentleman is a married man, and seems to think that he and all of us are anxious to get out from under the bond and yoke that our wives have upon our collars. (Laughter.)

Mr. President, we have come here to discuss matters that will be submitted before this Convention, but I submit, sir, that we have not come here for the purpose of preserving these discussions at the expense of the State of Alabama. (Applause.) If there is any man within this Convention who desires to preserve his eloquence, I am sure that The Advertiser can furnish him with as many copies of The Advertiser as will be necessary to carry out the scheme. The only argument, sir, that the advocates for the adoption of the majority report have urged upon this floor is that in the event this Constitution is to be considered by the courts of the country, what we say in making that Constitution will be valuable to the court in getting at our intention. The Honored Chairman of the Committee, who makes the majority report, has confidence in the intelligence and the patriotism of this body. He talks much to you about relying upon the wisdom of the members of this Convention, but he tells you at the same time, sir, that we must put a clause in the Constitution and then in the record of the Convention we must say, gentlemen, what we mean by it. I have, sir, a higher respect for the wisdom and learning of the members of the Convention than has the gentleman from Montgomery. I believe, sir, that we will frame a Constitution that will be so plain that it can be understood by all men, even by the Supreme Court of the United States.

I hope, gentlemen of the convention, that you will not put the State of Alabama to this useless expense.

MR. SAMFORD—Mr. President, I hesitate and did hesitate for some time before I decided to make any remarks on a question that had been passed upon by a committee of members for whom I have such high esteem, but it occurs to me that to the observing man, one thing has been made plain to the members who form this convention, and that is that every thoughtful man in this convention is advancing towards the work that has been allotted it to do, with extreme caution, and in a very gingerly manner. It is an open secret in Alabama that a majority of the people are in favor of eliminating the negro from politics, without interfering with the rights of any white man, and while I agree with the gentleman from Jefferson in saying that we ought to take into confidence every citizen of the State of Alabama, and every person who has any interest in this matter, I hold to the view that outside of the confines of this State, nobody has got anything to do with our business, and adverse criticism is never relished from one's enemies, and if the verbatim reports of this convention could be confined to those who are vitally interested in its work, I might favor the passage and the adoption of the majority of this committee, notwithstanding the unnecessary expense that the State of

Alabama will be put to on account of it. Now, Mr. President, the question of expense is no small item. They speak of a thousand or two thousand, or three thousand dollars as if money grew on trees, and we had it to squander, or to expend as our caprice or whims might dictate. I will state for the information of this body, perhaps some of the members are not aware of the fact, that only a limited amount has been set apart and appropriated for the proceedings of this convention. I will also state for the benefit of others, that it is not incumbent upon us to expend every dollar that has been appropriated. Eighteen hundred dollars — two thousand dollars, three thousand dollars, what does it avail? What does it avail? In the first place, it goes to our enemies beyond the confines of the State, perhaps furnishing sticks to crack our heads with in times of trouble that are likely to follow. And within the confines of the State it gives to some men—some men I say—there are very thoughtful men who desire to have their views recorded in bound volumes for the enlightenment of posterity, but it gives to some men in this convention, and I will say only a few men, the opportunity of airing their views before an admiring public, and that is the extent—(applause) that is the extent, Mr. President, of the benefits to be derived from a stenographic report of these proceedings. The milk in the cocoanut, the germ in the nut (smiles) all that will be necessary to guide future generations (laughter) will be gotten out of it, as my friend from Madison said, by the enterprising newspaper man, and I have been taught to believe that he gets the best of everything. (Continued laughter.)

Now, Mr. President, the lapsus lingue of the speaker is a strong argument against a stenographic report. And I trust it will not be recorded in that way.

Now, Mr. Speaker, Mr. President, I trust that this—the minority report of the committee will be adopted. In my humble opinion, while there are some reasons why the other would be good, the reasons are not sufficient to warrant the outlay of money that is necessary for it, when taken in connection with the serious objections that go along with the question of expense.

MR. HARRISON—I think, Mr. President, that a moment's reflection would satisfy my friend from Pike and other gentlemen, that he need not be uneasy about the expense of these stenographic reports. They are mistaken. To my mind, it is one of the strongest reasons why we should have our proceedings reported. There are 155 delegates in this convention. If we sit six hours a day, the cost will be over $50 for the time that it would take to read the journal in the morning. If it is printed and upon the desk of each member, we could with safety dispense with the reading of the journal, and the saving of a half an hour alone would, in my judgment, and I believe if the delegates will make the calculation it will be found to more than pay the expense of these report-

ers. This is to say nothing, Mr. President, of the time that will be saved. I do not know whether you can take that from the class to which the gentleman who made the minority report has referred to—those gentlemen whom he says desire to speak in a plain and simple way; or others, who may, as some others have charged, simply desire to have this means of speaking to their constituents, but I submit upon every class that it will have the effect to save time to provide these reports—time that I think the delegates themselves will see—and I appeal to you to ask yourselves the question, whatever class you belong to, if you know your remarks are to be recorded, and you read them the next morning, as I said to a friend of mine in the Senate who was going to Congress, I was glad he was going, that he would be more careful with his speeches when he got where he could read them the next morning in The Record. And, it will have that effect on the delegates. Delegates will not consume so much time of the convention, because when they desire to be heard, they will prepare themselves, and when they have finished they will take their seats, and that amount of time and expense to this convention, I believe, will treble every day when in session in actually saving money to the State of Alabama. And, if for no other reason, I would favor the report of the majority of this committee, but what is the great reason, Mr. President? To my mind, it is this: that it has become the best way of keeping the records of any and all proceedings. We do it in the courts. They do it in Congress. All of the recent conventions have done it. Why, you had just as well tell me that you may as well go back and come to the Capitol here by private conveyance and not use the railroad, as to say that we will not use the expert stenographer in this country. It actually saves money. Arrives at the truth, and saves money in doing it, and should we simply hesitate here because some gentleman, perhaps, may desire twenty years from now to change his opinion. We have not time to wait. Let the gentleman prepare, and think well before he acts. Let us, gentlemen, give not to the people of Alabama, but to the people of the United States, the reason that actuate us in anything we may do here. Let us stand by the truth. Publish it to the world, let it be whatever it may. There will be no expense incurred by this. You will find that it will be a saving to the State of Alabama. We will do another thing that is very much needed here, delegates. We have not taken the people of Alabama sufficiently into our confidence on the call and the election for this convention. The majority, and a large majority, have a hesitancy. I was proud this morning of the motion of the gentleman from Dallas, where we have said that the people shall pass upon it. If we wish the people of Alabama to pass intelligently upon it, let us keep them posted day by day. Let us take our people into our own confidence. Let us assign our reasons, and let them read them, and upon the justice of our cause, and of whatever action we may conclude, let us be men, and stand by it. It is too small for a Constitutional Convention of the State of

Alabama to be undertaking to hide or cloak anything. Let us give it to the world, that is the best way to do it, gentlemen. It is a money saving proposition, and I do hope with all due respect to my young friend who offers the minority report, that this Convention will proceed in a business-like way saving money to the State of Alabama, taking our people into our confidence, and assigning publicly to the world whatever reasons we may have for the action we shall take and I feel satisfied that they will never regret it.

MR. SANFORD—I have listened with a great deal of interest to the arguments that have been made pro and con on this proposition, but it does seem to me that if we are to take the people into our confidence, as the gentleman from Pike says we are to do, how can we take them into our confidence when they do not know a thing of what we wish, or a single word that we utter. We should remember that we stand here in the presence of eighteen hundred thousand people that are outside of these walls. In the absence of being able to hear they are equally solicitous as to what they shall read. The reading takes the place of an audience—

MR. SAMFORD—Will the gentleman from Montgomery permit me to ask him a question.

MR. SANFORD—Certainly.

MR. SAMFORD — How many of these eighteen hundred thousand read the Advertiser?

MR. SANFORD—It is not for The Advertiser alone,—

It will be taken all over the country. The Advertiser will be extracted. Every man who utters a wise sentiment will be quoted. It is a matter of enlightenment to the people. Look at Madison's papers, how valuable have they been in understanding correctly the Federal Constitution. Not national. That very word was stricken out of the proceedings of the Federal Convention of 1787, no less than twenty-six times. It is Federal. Some gentleman speaks of it as national but it is not a nation. That word was expunged from the proceedings—

MR. MALONE—Will the gentleman permit me to ask a question.

MR. SANFORD—Yes.

MR. MALONE—What is it good for? how many will read it?

MR. SANFORD—It will be known all over Alabama, and I do not see if my eighteen hundred thousand people are standing out here, why you should talk so softly that only one hundred and fifty-five should hear it. (Applause.) They wish to hear everything and in the absence of hearing, give them the right to read and comprehend it. You speak of expense. Why, my country-

men, no money was ever expended more wisely than that which enlightens the people, and which secures their liberties.

The very arguments made here will instruct them as to why they should either reject or ratify the Constitution and that is the reason why these reports are made everywhere. It is for the enlightenment of the people, and therefore I say that there is no better mode of doing it than the recommendation made by the Committee—by the report of the majority of the Committee on this question. He says if it is confined to the State of Alabama he would have no objection to it. What objection has he to the fact that Georgia and Mississippi and Tennessee and Florida may know what we are doing. If we can benefit Alabama, why not let our wisdom, if we are wise, benefit all the other States surrounding us. I see no reason to confine it to Alabama. I see no reason for confining your argument to this hall. It presents every argument in the very words, and the logical sequence in which it was uttered, infinitely better than a mere hap-hazzard report. Therefore I say that this majority report should be adopted.

MR. MALONE—I just want to ask one question. Who will it practically benefit? Who will it practically save expense—to us or to the newspapers?

MR. SANFORD—It will benefit the people.

MR. MALONE—Who will it save expense, to us or to the people?

MR. SANFORD—I do not hear the question.

MR. BROWNE—I would like to answer the question—

MR. SANFORD—It is not saving expense; it is paying expense. The State does that. It does not merely benefit the newspapers, it benefits the people.

MR. MALONE—You misunderstood the question. I want to know who gets the benefit of it?

MR. SANFORD—The people get the benefit of it. It is intended for their benefit. It is intended to give them the arguments why they should adopt or reject this constitution, their organic law. It is for their benefit. And what is the expense for two million people? Eighteen hundred dollars, two thousand dollars, how much per man is it? A cigar or a glass of beer and they understand everything connected with the proceedings of this great convention, engaged in making the organic law of our State. I therefore hope gentlemen, that you will adopt the report of the majority. The expense is trifling; the benefit is infinite to the people and for these reasons I hope that you will sustain the report.

MR. GREER—I regret exceedingly to be compelled to dissent from the views of the distinguished and eminent gentleman

who has preceeded me in support of the report of the majority of the committee, but, sir, the divine word of God says to us "be ye doers." The people of Alabama today are not so much interested in what we say in this convention; it is what we do, and the journal read there shows what is done here. That is what the people of Alabama, I say are interested in, and not what we say. I am compelled to repeat what has been said on the floor of the convention, that the orators of this convention alone will be benefited by the adoption of the majority report; we have not come here to make speeches but to do the will of the people who have sent us here. They might appear somewhat to disadvantage, if that report were adopted. It is not to be assumed, Mr. President, and we do not admit that the constitution framed by this convention will ever go to the Supreme Court. I believe that the wisdom and judgment of this convention will so frame a constitution that all will be satisfied that it will be within the scope and will not be in violation of the fourteenth and fifteenth amendments of the Constitution of the United States. I do not believe, I cannot believe that the discussion on the floor of this convention would shed any light upon what is done here, and should the question not be raised in the Supreme Court, and should it be raised in the Congressional halls in an effort to cut down our representation, the very gentlemen who are so anxious to have their remarks published would like very much to have them erased. In view of those facts, Mr. President, I call for the question.

(Cries "question.")

MR. HEFLIN—Mr. President, I desire to say a word or two. It appears to me, Mr. President, that it is out of order entirely for this Convention to have this stenographic report, because the newspapers,—it is their business to get up this news, and they do it, and they are to be congratulated on giving to the people of Alabama whatever has occurred here. It is the duty of the Secretary of this Convention to keep the Journal of the proceedings of this Convention, and it occurs to me that this is a useless expense to have a stenographic report, and also to have a Secretary and an Assistant Secretary for this Convention. The newspapers, day by day, will give the proceedings of this Convention. The Secretary will keep the journal of this Convention, and that is all, it occurs to me, that is necessary. Besides that—

MR. O'NEAL (Lauderdale)—Mr. President, my information is that The Advertiser published the stenographic reports as a matter of courtesy to these reporters. Now does the gentleman undertake to state if this majority report is defeated that The Advertiser will continue to furnish stenographic reports of the proceedings of this Convention.

MR. HEFLIN—No sir, I do not, Mr. President, and the gentleman misunderstood me.

MR. O'NEAL (Lauderdale)—My information from The Advertiser and the other papers is that stenographic reports will not be published unless there is a reporter employed.

MR. HEFLIN (Chambers) — I simply desire to say, Mr. President, in reply to that, that we do not expect The Advertiser and these daily papers to give out to the people of Alabama stenographic reports at their own expense. We do not ask them to do it. But, Mr. President and gentlemen of this Convention, it has been my experience with these papers in the Legislature of Alabama, that you see on the following day all that occurred yesterday in the General Assembly. They owe it to the men who patronize their paper. Mr. President, and they delight in doing it—

MR. WEATHERLY—I will ask you if the ordinary newspaper report would be considered as an official account of the proceedings of this Convention? As I understand it, this will secure an official and permanent official report that will be a part of the archives of the State. Now I ask you whether or not that will be done by a mere newspaper report?

MR. HEFLIN (Chambers)—I reply that I do not consider that it will be, nor do I think it is necessary that it should be.

MR. DENT—I would like to ask the speaker a question.

MR. HEFLIN (Chambers)—Yes sir.

MR. DENT—I believe you were a member of the Legislature?

MR. HEFLIN (Chambers)—No, sir, I was not.

MR. DENT—Well, whether you were or not, is it not a fact that there was a great deal of confusion and uncertainty about the records of the Legislature, and a great many charges of irregularities.

MR. HEFLIN (Chambers)—Yes, sir, that is my information.

MR. DENT—And it would have been avoided if there had been a stenographic report of the proceedings.

MR. HEFLIN—That is my information, Mr. President; that there was some talk about irregularities in the last General Assembly, but when I was here in '96-7—8-9, we did not have any of those irregularities. (Laughter). I am now undertaking, Mr. President, to keep them from getting into irregularities and making mistakes. Mr. President, we would appreciate, morning after morning, reading the well-rounded periods of the eloquent gentlemen who will speak time after time, upon the grave questions of this convention, but when you go, as one gentleman preceding me has already said, into the purse of the people and take out two thousand, twenty-five hundred dollars to preserve our speeches here, day after day, we are going to step too far, and must not

make that step. Another strong point to my mind has been suggested by the gentleman from Walker. There will be things done and said in this convention that we do not want the Northern papers to have. There will be, Mr. President, when the battle comes between the Anglo-Saxon and the African, things said here that we do not want to go before the court of the United States in determining the plank in our constitution of the suffrage question. We will say things down here in our Southern way, and in the great old commonwealth of Alabama, that we do not want read and criticised day after day as we deliberate in this body. Mr. President, having here a secretary to keep a journal, having here newspapers who take a delight in giving the news and information from this convention to their people over the State, and having a desire to save this expense to the State of Alabama, I certainly hope that the minority report will prevail.

MR. GRAHAM (Talladega)—Mr. President, in reply to the remark of the gentleman as to what the Northern papers would say about us, I desire only to say that I do not know of any section of this nation that is as much in need of enlightenment from a Southern standpoint as our Northern friends, (applause), and I, therefore, at this time demand the previous question.

Cries, "question."

MR. OATES—Mr. President, I would ask my friend from Talladega—

MR. GRAHAM (Talladega)—I withdraw it in behalf of the chairman of the committee to close his remarks.

MR. ESPY—I am in favor of the adoption of the majority report. There have been about four reasons assigned why it should not be adopted. The first, by the gentleman from Walker, who says that no other convention has ever done a similar thing. Another is that these eloquent gentlemen say, indirectly charge that the purpose of it is to perpetuate the eloquence of certain members of this convention. Another is that there is a probability that the members of this convention, during its deliberations, will say something that in the future will rise up before them as a ghost and which they cannot see. The other is a matter of expense. These are the only objections that I have yet heard.

In answer to the first, that no other convention has ever done likewise: Why if that is an objection at all, then the Legislature of Alabama has done a very poor thing in calling this convention and putting this great State to the expense of holding this convention, if we are to be limited, and are to do nothing more than our ancestors did in this hall in 1875. If that be true, why, then, we would not be authorized to deal with the suffrage question. If we are not authorized here, and it is not proper to have a stenographic report made of the proceedings of this body, then the

argument would apply with equal force that in 1875 and these prior constitutions the question of suffrage was not discussed at all. What are we here for, Mr. President? Why it has been proclaimed by the press, from the platform, from the mountains to the seaboard, that the prime purpose of this convention was to disfranchise the negro. If it is morally wrong, and it is not for the best interest of the State of Alabama to do that then we ought not to do it. If it is morally right, and it is to the benefit of the people of the State of Alabama, we ought to do it, and we ought to make a record of our actions, and file it in the archives of our State, so that future generations will not only see what we did, but they may know the reasons why we did it. Talk about fear! Why, never did I dream that the great State of Alabama one that has produced a Wheeler, and a Hobson, would produce a convention of men that did not have the nerve and the manhood and the bravery to stand up and proclaim to the world the reasons why they did a particular thing. Now the next reason is with reference to the prepetuation of eloquence. This is a most remarkable thing. Doubtless it has already occurred to the members of this convention that nobody raises that point, except the eloquent men. Nobody at all. There is the sweet singer from Chambers, the last; there is the eloquent gentleman from Pike—I do not know, but perhaps I would be pardoned if I would call him the lapsus-linguist of this convention—he is the next man; the next man is the good looking and sweet toned speaker from Madison, and I ask this convention and I ask this Chair, where is there a single man that is opposed to this report except those who lay claim to oratory.

MR. LONG (Walker.)—May I ask a question?

MR. ESPY—Why my friend you are the most eloquent man in this hall; don't deny it.

THE PRESIDENT — Will the gentleman consent for the gentleman from Walker to ask a question?

MR. ESPY—Yes.

MR. LONG (Walker)—I want to know if we had not better adopt the plan of Congress and let speeches be published and not spoken on the floor?

MR. ESPY—Perhaps we had better do it. Indirectly Mr. President they charge that the purpose of those who advocate the majority report to be to perpetuate their eloquence, when it is a well known fact that eloquence is not handed down from generation to generation. Why the men who live after us a quarter of a century, will never know of the eloquence that comes from these eloquent gentlemen in this hall during this convention. That is not it. Would they pardon me if I would mildly suggest to them, it is not because they do not want the eloquence perpetuated, but is it not because they do not want to see their utterances without the eloquence, placed in cold type, and read fifty years from to-

day? Now these are the reasons—all except that matter of expense. I do not care to discuss that, because the expense is so nominal in this matter until I do not think there is a member of this house that could and would possibly give that serious consideration. I therefore hope Mr. President, that the majority report will be adopted.

MR. OATES—Mr. President, being in charge of the bill, I have not insisted upon action earlier, so as to allow all gentlemen who so desired to express their views upon this subject a fair opportunity. Some gentlemen seem to be very much afraid of a stenographic report. Now my friends from Walker, from Madison, and from Pike, all aspiring and able young men, who doubtless expect ere long to turn up in Congress, and I would be glad to see them there and I would say they better get used to being stenographically reported before they go there, for everything they say will be reported and reported in full. Now, sir, some mistakes have been made in regard to these publications. Some gentlemen alludes to the fact that we get in The Advertiser every day full reports. Why, sir, that is a sort of test to show people, the members, delegates and others, what may be done. These stenographers who are desirous of obtaining the position of official stenographer have been making reports and The Advertiser has been publishing them, but, sir, that cannot continue, and that newspaper, nor any other can afford to pay for the stenographic reports, fifty, sixty or seventy dollars a day, and keep it up. They cannot do it. So that the reports that we get from the newspapers would be the ordinary reports that we find in the newspapers of proceedings, not stenographic reports. Now, sir, the stenographic report some suppose would not be near so bulky. We would like to have them some in book form, like The Congressional Record, but that cannot be done because there is not a printing establishment in Montgomery that can do that work day by day. The information your Committee received from the stenographers, who were familiar with the printing, is that we must take it in newspaper form at last, and both sets of bidders for this work report to us that The Advertiser is the only newspaper that has sufficiently large facilities for doing this work every night so as to have it next morning. So that both bidders—both sets of them, are dependent upon that newspaper for the printing, and I have no doubt but it can be done. Not as the gentleman see from the report as a newspaper, but with the heading recommended by the Committee, an official report of the proceedings of the Constitutional Convention of Alabama, to be printed in The Advertiser office, but with that heading, and when they are brought in here, they will be apportioned to all members and they can send them to newspapers, and prominent men among their constituents, and it will give them a large circulation and readers desirous of knowing what we are doing will get hold of them and read them, and doubtless feel a deep interest in what is done.

MR. LONG (Walker)—I desire to ask a question. Do you think it would be advisable to start a Convention Record, something like The Congressional Record, so that it would be cheaper to print speeches, and circulate them among the people?

MR. OATES—It would not, and there is no such printing establishment in Montgomery. Mr. President, I think the Convention and every member of it is fully in possession of the reasons given in favor of this report, and the objections that have been urged, and I cannot see that in the latter there is anything very substantial. There must be a beginning to all work of this character. Now, in this State, while we have no law requiring courts to have stenographic reports, yet stenographers are employed in a great many of them. Many States have a law on the subject, that provides for stenographers for the Courts, and it is found to facilitate the business very largely, and make it much cheaper than the old style of doing it, puts an end to controversies between lawyers and Courts with reference to the bills of exceptions and things of the kind. My friend from Lee has stated very clearly how this moderate expenditure will be very wise and a source of economy to this Convention. Now, sir, as I do not desire to prolong the time and believing that the Convention is ready for a vote, I move the previous question.

THE PRESIDENT—The question is whether the main question shall be put. (Carried.)

THE PRESIDENT—The question recurs on the motion of the gentleman from Lauderdale to substitute the minority report for the majority report, and the ayes and noes have been called for.

MR. BROOKS—I would like to have the chair state what proposition we are voting on. Probably it is misunderstood by some of the members of the Convention. Are we voting on the question of substituting the minority report for the majority report?

The President re-stated the question.

The roll was called.

MR. BURNS—I would like to explain my vote. I vote not to expend the people's money unless I think it is necessary.

MR. GREER—I desire to change my vote from aye to no, for the purpose at the proper time of moving to reconsider this vote.

The vote resulted 60 yeas, 80 nays.

So the motion to substitute the minority report was lost.

THE PRESIDENT—The question recurs on the adoption of the original resolution as reported by the gentleman from Montgomery.

MR. BROWNE—I move to reconsider the vote by which the motion to substitute the minority report was lost, and I now move to table that motion. (Seconded.)

MR. GREER—I rise to a point of order, as I have given notice that I would move a reconsideration—

MR. LONG (Walker)—After the announcement of the vote, the gentleman from Talladega moves to lay the motion on the table and it comes too late.

MR. BROWNE—There is nothing in the point of order because he cannot give notice before the vote is announced.

MR. SOLLIE—We are acting under general parliamentary rules and a motion to reconsider under general parliamentary law is in order at all times, as I read the books on the subject, without previous notice.

MR. JONES—I think it is in order to lay that motion on the table at any time when it is made and therefore the gentleman from Talladega is in order.

The President overruled the point of order.

THE PRESIDENT—The question is on the motion of the gentleman from Talladega; those in favor of laying the motion to reconsider on the table say aye: those opposed no—

A division was called for.

MR. WHITE—It is too late to call for an aye and nay vote, because a division has already been called for.

MR. LOMAX—State the question, Mr. President.

THE PRESIDENT—The gentleman from Talladega moved to reconsider the vote whereby the Convention refused to substitute the minority report for the majority report, and thereupon he moved to lay that motion on the table. Those voting aye vote in favor of the motion to table; those voting no, vote in favor of not laying it on the table.

The vote resulted 75 ayes, 48 noes.

So the motion to table was carried.

THE PRESIDENT—The question recurs on the adoption of the majority report of the committee.

MR. LONG of Walker—Mr. President, I have a substitute to offer for the majority report.

MR. O'NEAL (Lauderdale)—I hope that the distinguished chairman of the committee won't object to that until it is read; if he does, I will withdraw it.

The resolution was read as follows: "Resolved, That five thousand dollars be, and is hereby, appropriated to purchase a printing press and to issue a daily pamphlet to be known as The Daily Conventional Reporter, and each member be, and he is hereby authorized to print one speech each day, whether or not the same was written by himself or delivered before the convention, the same as now practiced by the Congress of the United States.

THE PRESIDENT—The motion is out of order. The question is on the adoption of the majority report of the committee.

A vote being taken, a division was called for.

MR. JENKINS—I make the point of order, the decision of the chair was announced, and the division comes too late.

MR. LONG (Walker)—I make the point of order that the decision was not announced.

The chair ruled that the decision was not announced.

MR. BROWNE—I make the point of order that you cannot call for the aye and nay vote, after you call for the division. It is too late to call for the ayes and nays after the vote has been taken and a call for division—

THE PRESIDENT—It seems to the chair that the point of order is well taken.

MR. LONG (Walker)—What was the point of order made by the gentleman?

MR. BROWNE—The point of order is that a vote has been taken and then there was a call for division; on the call for division after a vote has been taken, it is too late to call for the yeas and nays.

THE PRESIDENT—The vote had been taken. The ruling of the chair will be that when the chair submitted the question to the convention, it was in order for the gentleman from Walker to call for the yea and nay vote, but not doing so, he waived his right to do so. The call for division was in time. Do you still insist on the division.

MR. LONG (Walker)—It depends on what kind of division it is; there is long division and short division (laughter).

The question was put and carried.

MR. EYSTER of Morgan—I offer a resolution.

The resolution provided for a test as to the competency of the various corps of stenographers by transcribing and reading their notes on the floor of the convention.

MR. SAMFORD—Mr. President, It strikes me that comes too late.

MR. WATTS—I rise to a point of order. We have awarded the work by the adoption of the majority report—

MR. SAMFORD—I rise to a point of order; that the adoption of the report as I understood it made a trade with the reported. The contract has already been made.

MR. WATTS—I rise to a point of order—

The point is sustained.

MR. PETTUS—I move the resolution go to the Committee on Rules without debate.

MR. CUNNINGHAM—I make this point of order; that the resolution offered by the gentleman from Morgan is tantamount to a reconsideration, which motion has been made and laid on the table.

THE PRESIDENT—The Chair will state for the information of the gentleman from Jefferson that the same point of order has been made by the gentleman from Montgomery and sustained by the Chair.

MR. LONG (Butler)—I move that we do now adjourn.

Seconded.

MR. MERRILL—I ask that he withdraw the motion; I desire to ask leave of absence for next Monday.

THE PRESIDENT—Does the gentleman consent to withdraw?

MR. LONG (Butler)—Yes.

Leave was granted Mr. Merrill of Barbour for Monday next.

MR. LONG (Butler.)—I renew my motion.

THE PRESIDENT—Before putting the motion to adjourn, the chair is requested to make the following announcement. It is mutually agreed that the caucus of the Democratic party which was to meet at 4 o'clock this evening to dispose of the case of Mr. Williams of Elmore, shall be continued until Monday afternoon next, 4 o'clock. Signed Gregory L. Smith; William C. Fitts.

MR. OATES—Before the motion is put to adjourn I wish to make a remark if it is pertinent to the offer which was made to test the skill of these stenographers. I am aware there is nothing before the convention to which my remarks apply, but the gentleman's proposition was tantamount to a motion to reconsider, but any motion to test the skill of the stenographers may be made

not in conflict with what has been done, if they wish to test it, but not to annul the resolution for a contract.

THE PRESIDENT—The question is now on a motion from the gentleman from Butler, that this convention do now adjourn until Monday at 12 o'clock.

The motion to adjourn was carried and the convention adjourned.

FIFTH DAY

MONTGOMERY, ALA.,
May 27th, 1901.

The Convention was called to order by the President and was opened with prayer by the Rev. Dr. Anderson.

The roll was called and showed 121 members present.

Leaves of absence for today were granted to Messrs. Ledbetter, Sanders, Greer, Ashcraft.

Leaves of absence for today and tomorrow were granted Messrs. Long (Walker), Locklin, Hale, Coleman.

Leave of absence was granted for three days to Messrs. Renfro and General Harrison, the leave to the latter gentleman being to allow him to attend the Confederate Reunion at Memphis, he being at the head of the Confederate Veterans Association.

MR. GRAHAM—I move that in the reading of the journal, that portion of it which includes the propositions as to the stenographic report be omitted as it is unnecessary.

The motion was carried.

MR. PETTUS—I move that the entire reading of the journal be dispensed with and that the same be referred to the Committee on Journal when it is created.

The motion was carried.

Mr. Wilson (Clarke) here took the chair.

MR. KNOX—The Committee on Rules begs leave to submit a report covering the rules which are recommended for the adoption of this Convention.

The report was read as follows:

REPORT OF THE RULES COMMITTEE

DUTIES AND RIGHTS OF THE PRESIDENT.—OPENING OF DAILY SESSIONS

Rule 1—The President shall take the chair every day at the hour fixed on the preceding adjournment; shall immediately call the delegates to order, and proceed with the regular order of business.

ORDER; DISCUSSIONS OF POINTS OF; APPEALS THEREFROM

Rule 2—He shall preserve order and decorum; may speak to points of order in preference to other delegates, rising from his chair for that purpose. He shall decide questions of order, subject to an appeal to the Convention, at the request of any delegate; which appeal shall be decided without debate, except that the delegate taking the appeal, or any other delegate to whom he may yield, may speak to the appeal not exceeding five minutes. An appeal shall not be put to the Convention unless it is seconded.

QUESTIONS; HOW PUT AND DECIDED

Rule 3—He shall rise to put a question, but may state it sitting. All questions shall be distinctly put in this form, viz: "Those in favor of (as the question may be) say aye," and after the affirmative vote is expressed "those opposed to the motion say no." If the President doubts, or a division is called for before a decision is announced, they shall divide. Those in the affirmative of the question shall rise from their seats; and afterwards those in the negative. The President shall then state the decision of the Convention.

MAY SUBSTITUTE TEMPORARY PRESIDENT

Rule 4—He shall have a right to name any delegate to perform the duties of the Chair, but such substitution shall not extend beyond an adjournment.

CALENDAR

Rule 5—The President shall, whenever he deems it necessary for the speedy dispatch of business, order the calendar printed for the use of delegates.

SIGNATURE OF PRESIDENT, ETC., TO WHAT REQUIRED

Rule 6—All ordinances which have been finally acted upon by the Convention shall be signed by the President, and all other

acts of the Convention, except resolutions, which it may become necessary to reduce to writing, shall be evidenced by the signature of the President, attested by the Secretary.

OFFICERS OTHER THAN PRESIDENT.—OFFICERS AND EMPLOYES; TERMS OF

Rule 7—All officers and employes appointed or elected by the Convention shall hold their offices at the pleasure of the Convention only, and the clerks of committees at the pleasure of the committee for which they were appointed.

JOURNAL; ENDORSEMENT OF RESOLUTIONS, ETC.; DOCUMENTS

Rule 8—The Secretary shall keep a correct journal of the proceedings of the Convention in a well bound book, to be provided for that purpose, and shall read the same daily to the Convention if required. He shall be responsible to the Convention for the accuracy of the journal and for the faithful and prompt execution of the work ordered by the Convention. He shall endorse all resolutions and orders proper to be endorsed; he shall keep in his charge all documents in the custody of the Convention and keep them in order, and shall perform such other duties as may be required by the Convention.

REGISTER OF ORDINANCES

Rule 9—The Secretary shall keep a register of ordinances, which shall show the title of each ordinance in the order in which it was introduced, and the several actions of the Convention shall be noted with the date of the action immediately below the title. He shall keep an index to the register arranged according to the names of the delegates and also the subject matter of the ordinances.

SERGEANT-AT-ARMS; DOOR-KEEPER

Rule 10—The door-keeper shall perform the duties of Sergeant-at-Arms. He shall execute the orders of the President and of the Convention. He shall keep in order the hall. He shall keep the door of the hall and perform such other duties as may be required of him.

RULES OF DECORUM AND DEBATE.—DELEGATES SHALL ADDRESS CHAIR

Rule 11—When any delegate is about to speak or deliver any matter to the Convention, he shall rise from his seat and respectfully address himself to the President.

CALLING DELEGATE TO ORDER

Rule 12—If any delegate transgress the rules of this Convention, the President shall, or any delegate may, call him to order; in which case the delegate so called to order, if speaking, shall immediately sit down, unless permitted to explain. The point of order raised shall be stated when a delegate is called to order, and decided by the President, and the Convention shall, if appealed to, decide on the case, but without debate. If the decision be in favor of the delegate called to order he shall be at liberty to proceed; if the decision be against him and he refuses to obey, the President may direct the Sergeant-at-Arms to seat him or remove him from the floor of the Convention and he may be liable to the censure of the Convention.

RECOGNITION BY THE CHAIR

Rule 13—When two or more delegates happen to rise at the same time, the President shall name the person who is first to speak.

SPEECHES—THE NUMBER AND LENGTH OF; EXCEPTIONS

Rule 14—No delegate shall speak more than once to the same question, nor more than half an hour at any time, without leave of the Convention, unless he be the mover or Chairman of the Committee proposing the matter pending, in which case he shall be permitted to speak in reply, but not until every delegate choosing to speak shall have spoken.

RESPECT TO CHAIR AND DELEGATES;
VISITING SECRETARY'S DESK

Rule 15—While the President is putting any question or addressing the Convention, no person shall walk out of or across the hall of the Convention; nor in such case, or when a delegate is speaking, shall entertain private discourse, nor while a delegate is speaking shall pass between him and the Chair. Every delegate shall remain uncovered during the session of the Convention. No delegate or other person shall visit or remain by the Secretary's table while the yeas and nays are being called or ballots are being counted.

PERSONALITIES

Rule 16—Delegates shall particularly forbear personal reflections; nor shall any delegate name another in argument or debate.

PREVIOUS QUESTION

Rule 17—The previous question shall be in the following form: "Shall the main question be now put?" If demanded by a vote of a majority of the delegates present, its effect shall be to cut off all debate and bring the Convention to a direct vote, but the mover of the question, or the Chairman of the Committee having charge of the bill or resolution, shall have the right to close the debate, after the call of the previous question has been sustained, for not more than thirty minutes, unless the Convention extends the time. The demand for the previous question may be limited by the mover to any subsidiary motion or motions not of a higher rank than the motion for the previous question, or made to apply to the main question and all subsidiary motions.

MOTION FOR PREVIOUS QUESTION; INCIDENTAL POINTS OF ORDER PENDING

Rule 18—On a previous question there shall be no debate. All incidental questions of order arising after a motion is made for the previous question, and pending such motion shall be decided, whether on appeal or otherwise, without debate.

SMOKING

Rule 19—No person shall be allowed to smoke within the House, lobby or gallery.

APPLAUSE

Rule 20—No applause shall be permitted either on the floor or in the gallery of the Convention.

LOBBY OR GALLERY MAY BE CLEARED

Rule 21—In case of any disturbance or disorderly conduct in the lobby or gallery the President shall have the power to order the same to be cleared.

ORDER OF BUSINESS

Rule 22—The following shall be the order of business in the Convention:

1. Call to order.
2. Prayer.
3. Ascertainment of quorum.
4. Report of Committee on Journal.
5. Approval of Journal.

6. Call of the roll in alphabetical order for the introduction of resolutions, memorials, petitions and ordinances and their proper reference.
7. Reports of standing committees.
8. Reports of special committees.
9. Unfinished business.
10. Special orders.
11. Consideration of ordinances and resolutions which have been reported from committees.
12. Miscellaneous.

If the call of the roll for the introduction of resolutions, etc., is not completed on any day, it shall be resumed on the next day where left off on the preceding day. This provision shall also apply to reports of standing committees.

RESOLUTIONS AND MOTIONS AND THEIR PRECEDENCE

Motions—Stated or read; when to be in writing.

Rule 23—When a motion is made, it shall be stated by the President; or if in writing, shall be read aloud by the Secretary; and every motion shall be reduced to writing if the President or any delegate request it.

WITHDRAWAL OF MOTIONS

Rule 24—After a motion is stated by the President, or read by the Secretary, it shall be deemed in the possession of the Convention, but may be withdrawn by leave of the Convention, at any time before decision.

PRECEDENCE OF MOTIONS

Rule 25—When a question is before the convention, motions may be received in the following order, to wit: 1st. To fix the time to which the Convention shall adjourn. 2nd. To adjourn. 3rd. To lay on the table. 4th. For the previous question. 5th. To postpone to a certain day, not beyond the probable duration of the session. 6th. To commit. 7th. To amend. 8th. To indefinitely postpone.

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 to postpone indefinitely, being decided, shall be again allowed on the same day and at the same stage of the motion or proposition.

MOTION TO ADJOURN

Rule 26—A motion to adjourn shall always be in order, even in the absence of a quorum, except when on the call for the previous question, the main question shall have been ordered, or when the Chair is stating a question, or when the roll is being called or has been called, and the vote has not been announced, or when a vote is being verified, or when a member has the floor; and such motion shall be decided without debate.

RE-CONSIDERATION

Rule 27—When a vote has passed, except on the previous question, or on motion to lay on the table, or to take from the table, it shall be in order for any delegate who voted with the majority to move for a reconsideration thereof on the same day, or within the morning session of the succeeding day, and such motion, if made on the same day, shall be considered on the next succeeding day immediately after the approval of the journal; but if first moved on such succeeding day, it shall be forthwith considered; and when a motion for reconsideration is decided, that decision shall not be reconsidered, and no question shall be twice reconsidered. A motion to reconsider a vote, upon any incidental or subsidiary question, shall not remove the main subject under consideration from the house, but shall be considered at the time when it is made.

REFERENCE OF RESOLUTION

Rule 28—All resolutions before they are voted on shall be referred to and reported from the Committee on Rules.

REFERENCE—STANDING HAS PRECEDENCE OF SPECIAL COMMITTEES ON

Rule 29—When motions are made for the reference of a subject to a select committee and a standing committee, the question for the reference to a standing committee shall be first put.

SPECIAL ORDERS

Rule 30—Any matter may, by a vote of the majority of the delegates present, be made the special order for any hour, which shall take precedence, at that hour, of any other business except a motion to reconsider.

BLANKS, FILLING IN

Rule 31—Motions to fill blanks shall be considered and treated as other amendments.

TABLE, EFFECT OF MOTION TO

Rule 32—A motion to table shall carry to the table only the amendment, question or questions to which it is addressed.

RIGHTS AND DUTIES OF DELEGATES—ABSENTEES; CALL OF THE HOUSE; QUORUM

Rule 33—Twenty-five delegates shall have power to send for absent delegates or to move a call of the house; but no call of the house shall be made except on the concurrence of a majority of the delegates present. A majority of the convention shall be a quorum to transact business.

ROLL CALL—HOW MADE

Rule 34—Upon the call of the convention for taking the ayes and noes on any question, the name of the President shall be first called, and the names of the delegates shall be called alphabetically, and each delegate shall answer from his seat.

VOTING—INQUIRY OF QUESTION PENDING

Rule 35—When any question is taken by ayes and noes, and a delegate who has been absent returns before the question is decided, he shall be privileged to make inquiry of the subject before the convention, and record his vote without discussion.

AYES AND NOES—CALL FOR

Rule 36—The ayes and noes shall only be ordered when the call therefor is sustained by thirty delegates.

DIVISION OF QUESTION

Rule 37—Any delegate may call for a division of the question when the sense will admit of it.

VOTING BY AYES AND NOES; QUESTION LOST IF VOTE EQUALLY DIVIDED

Rule 38—Every delegate may be required to vote on any question before the convention. When the ayes and noes are ordered, the President shall be first called, and if the convention be equally divided, the question shall be lost.

ABSENCE OF MEMBERS

Rule 39—No delegate shall absent himself from the session of the convention, unless he have leave, be sick, or unable to attend.

EXPLANATION OF VOTE

Rule 40—After a vote has been ordered upon any question, no delegate shall be permitted to explain his vote without the unanimous consent of the convention.

COMMITTEES

By Whom Committees Appointed; Quorum; Standing Committees.

Rule 41—The President shall appoint all committees unless otherwise directed by the convention. A majority shall constitute a quorum. The following shall constitute the standing committees of the convention:

(1) Rules, of which the President shall be chairman, to be composed of nine members, and which shall have the right to report at any time.

(2) Judiciary, to be composed of twenty-five members.

(3) Order, Consistency and Harmony of the Constitution, to be composed of twenty-five members.

(4) Suffrage and Elections, to be composed of twenty-five members.

(5) Legislative Department, to be composed of nineteen members.

(6) Local Legislation, to be composed of nineteen members.

(7) Education, to be composed of nineteen members.

(8) Taxation, to be composed of nineteen members.

(9) Executive Department, to be composed of fifteen members.

(10) Preamble and Declaration of Rights, to be composed of fifteen members.

(11) Corporations, to be composed of fifteen members.

(12) Representation, to be composed of fifteen members.

(13) Exemption, to be composed of fifteen members.

(14) Militia, to be composed of fifteen members.

(15) Banks and Banking, to be composed of fifteen members.

(16) Municipal Corporations, to be composed of fifteen members.

(17) State and County Boundaries, to be composed of fifteen members.

(18) Impeachment, to be composed of fifteen members.

(19) Amending the Constitution and Miscellaneous Provisions, composed of fifteen members.

(20) Journal, to be composed of five members.

(21) Schedules, Printing and Incidental Expenses, to be composed of nine members.

CLERKS OF COMMITTEES

Rule 42—The following committees shall be entitled to clerks to be appointed by the respective chairmen of the committees, whenever in the discretion of the chairman of either of said committees it may be necessary: Rules, Judiciary, Order, Consistency and Harmony of the Constitution, Suffrage and Elections, Education and Corporations.

RECALLING MATTERS FROM COMMITTEES

Rule 43—Any ordinance or resolution may be recalled from a committee by a vote of the majority of the whole number of delegates elected to the convention.

SHALL NOT SIT DURING THE SESSION

Rule 44—No committee shall sit during the sitting of the convention without special leave.

CHAIRMEN OF COMMITTEES, BY WHOM DESIGNATED

Rule 45—The President shall designate who shall be the chairmen of all committees appointed.

TEMPORARY ABSENCE OF CHAIRMEN

Rule 46—When the chairman of a committee is sick, or unable to perform his duties, or absent from the city, the delegate whose name appears second on the committee shall, during the sickness, inability or absence of the chairman, become chairman, and have power to call together the committee for consideration of business.

REGULATIONS GOVERNING ADOPTION OF ORDINANCES

Introduction, Reference and Printing of Ordinances.

Rule 47—When any ordinance is introduced it shall be read at length and be referred by the President without a vote being taken, unless otherwise ordered by a two-thirds vote of the convention, to the appropriate committee. No ordinance shall be reported back from any committee until after the lapse of one entire legislative day. When any committee shall have reported to this convention any article or section of the proposed constitution, said

article or section shall again be read at length and three hundred copies thereof printed for the use of delegates; and such article or section shall lie on the table at least one day and until in regular order it shall be taken up for consideration by the convention.

RECOMMITMENT

Rule 48—Ordinances and reports may be recommitted at the pleasure of the Convention.

YEAS AND NAYS ON FINAL PASSAGE; JOURNAL ENTRIES; RE-COMMITMENT

Rule 49—Upon the final adoption of any article or section of the Constitution the vote shall be taken by yeas and nays and spread upon the Journal and the article as adopted shall be spread upon the Journal and be referred to the Committee on Order, Consistency and Harmony of the Constitution.

ORDINANCE, TITLE; PAPER UPON WHICH WRITTEN; NAME OF INTRODUCER

Rule 50—The title of each ordinance shall state concisely its subject matter, and shall state the article and section of the present Constitution to which it relates as far as practicable. Each ordinance shall be written on an entire sheet of paper with the name of the delegate who introduces it and the title of the ordinance endorsed thereon.

MINORITY REPORTS

Rule 51—When an ordinance or article is reported to the Convention and a minority report accompanies the majority report, the ordinance or article accompanying the minority report shall be considered an amendment, and the same shall be printed and the ordinance or article shall be read a second time; and said ordinance or article and minority report shall be placed on the calendar and be considered on the third reading of the ordinance or article.

ENGROSSMENT AND ENROLLMENT OF ORDINANCES

Rule 52—All articles of the Constitution after their adoption by the Convention shall be engrossed before their delivery to the Committee on Order, Consistency and Harmony of the Constitution and after the report of said Committee has been adopted by the Convention said Constitution shall be correctly enrolled.

REPORT OF THE ENTIRE CONSTITUTION TO CONVENTION; ACTION THEREON

Rule 53—The Committee on Order, Consistency and Harmony of the Constitution shall report the entire proposed Constitution to the Convention, and the Constitution so reported shall be read and acted upon, article by article and section by section, and submitted to a vote of the Convention: if a majority of the members present shall vote therefor the same shall be adopted, but if amended in any particular it shall be re-referred with such amendments to the said committee, who shall cause the Constitution with the amendments so adopted to be re-written and report the same to the Convention for its action. When the Constitution shall have been finally adopted by the Convention it shall be enrolled, and when enrolled it shall be again read and attested by the President and Secretary, and each delegate to the Convention personally shall sign his name thereto. The signature of a majority of the delegates present, if a majority of the Convention, shall constitute a sufficient attestation.

MISCELLANEOUS

DEFINITION OF TERMS "ORDINANCE," "RESOLUTION."

Rule 54—All propositions intended to be incorporated in the Constitution to be formed when herein referred to are designated as ordinances and other propositions submitted to the Convention when herein referred to are designated as resolutions.

RULES, SUSPENSION OF

Rule 55—That the rules of the Convention shall be suspended, except by a two-thirds vote of every delegate present, provided a quorum must vote.

PRIVILEGES OF THE FLOOR OR HALL; WHO ENTITLED TO

Rule 56—The lobby or floor of the Convention shall be kept clear of all persons who are not entitled to the freedom thereof; and the persons entitled to such freedom of the hall shall be as follows, viz: (1) Delegates and officers of the Convention; (2) Clerks of the Committees of the Convention; (3) Bona fide representatives of the press.

RULES RESCISSION OF; PUNISHMENT FOR VIOLATION

Rule 57—None of the foregoing rules shall be rescinded, without one day's notice of the motion thereof being given; and a violation of either of them may be punished by such censure as a majority of the Convention may direct.

DISCUSSION UPON REPORT OF COMMITTEE

MR. KNOX—I move the adoption of the report of the Committee on Rules.

GOVERNOR OATES—Before that motion is put, I will ask for the reading of either the third or the fourth rule again. It refers to a demand for a division. I do not know that I understood it correctly.

Rule 3, as above, was read by the Clerk.

GOVERNOR OATES—I submit to the gentlemen supporting the rules, that no one can properly demand a division by rising until the Chair announces the vote. They cannot demand it before. It ought to be required that just as soon as it is announced if there is any one desiring a division, he shall demand it at once. That is in accord with universal custom. When a vote is taken, if any delegate wishes to demand a division, the demand for the division is only a doubt as to the correctness of the decision as announced by the Chair. For instance, the Chair says, "As many as are in favor of the proposition will say yea and those opposed nay" and if there is a decision, as I understood the rule, it is then too late to demand a division by rising. Now, no demand can be made for a division until the Chair does announce the vote. I may be mistaken, but that is the way I understood it.

THE PRESIDENT PRO TEM.—The present occupant of the Chair understands it as does the gentleman from Montgomery, that a division must be called for before the result of the viva voce vote is announced.

MR. KNOX—Not before the vote is announced but before the decision.

GOVERNOR OATES—I do not understand the distinction. The Chair announced the vote, which is the decision.

MR. BURNETT—If I understand the gentleman from Montgomery, he is endeavoring to make the point that after the decision is announced where the vote is close, each delegate on the opposing side will have a reasonable right to presume that the decision will be in his favor and he has nothing on which to call for a division until it is announced and then under this rule it is too late. Would it not be better to allow the right to call for the decision after the vote is announced?

GOVERNOR OATES—That is exactly what I am trying to say. I do not think the rule gives that right, and I respectfully ask the Committee to make that correction.

MR. LOMAX—I will state to my friend from Montgomery that the idea of the Committee was this, that upon the vote being

taken the President would announce "the ayes seem to have it" or "in the opinion of the Chair the ayes have it," and that then a division could be called for but that after the final decision of the Chair "The ayes have it," the demand for a division is too late.

GOVERNOR OATES—I will say in reply, that I presume that is what the Committee intended but I think the language is susceptible of a different construction. It ought to be just that way, and if that is the meaning of it, it is all right.

MR. KNOX—That is the meaning the Committee intended it should have, that after the vote was announced "ayes 41 and noes 51," it would not be considered that the result had been announced and any gentleman could rise and demand a division, but after the Chair said "The ayes have it, or "The noes have it," it would be too late.

GOVERNOR OATES—The point I was driving at was not so much about calling the yeas and nays, I did not refer to that, but if the rule means that after the Chair announces so many ayes and so many noes, that then the opportunity should be extended to call for a division. That is the time if any gentleman wants a division to demand it. That is all the point I was making, and if that is the meaning of the rule as announced by the committee, I think it is all right.

MR. KNOX—That is the way we understand the rule.

MR. BULGER—I am not clear that I understand rule 32 and I would ask that it be read.

The rule was read as follows: "A motion to table shall carry to the table only the amendment, question or questions to which it is addressed."

MR. BULGER—I would ask the chairman of the committee a question: I understand there is a distinction in parliamentary law between an amendment and a substitute and I would ask the chairman of the committee if it is the intention of the rule that it shall not only apply to an amendment, but also to a substitute offered.

MR. KNOX—The Chairman of the Committee is of opinion that it would apply to an amendment or substitute and the rule says "an amendment, question or questions to which it is addressed."

MR. BULGER—Then I understand a motion to table a substitute, if carried, under that rule will not carry the original proposition to the table?

MR. KNOX—It is the object of this rule to prevent that.

MR. BULGER—I am not clear that I understand Rule 27, and I ask that that be read.

Rule 27 was read.

MR. BULGER—I would like to ask the Chairman of the Committee if a motion is made to reconsider today, can that motion be passed upon today under that rule or will it go over and be passed upon during the morning session tomorrow? Does it of necessity go over until tomorrow?

MR. KNOX—In the opinion of the Chairman of the Committee it would go over until the next day.

GOVERNOR OATES—There is nothing which contributes more to the facility of procceding of a body like this than having rules, and good rules, rules which are understood by the members. So far as I could hear the reading of the rules they are very good and I do not know that there are any valid objections to be made to any of them, if so, they are very few, but nothing as I stated will so much eliminate useless debate and unnecessary contention as rules which are understood and which are easy of interpretation. To that end, and not with a view of delaying, but because I think it will be a saving of time, I would respectfully ask the committee and the convention that these rules be printed and go over until tomorrow so as to give every delegate an opportunity of reading them and seeing what they are and so that afterwards no delegate can rise on this floor and say he did not understand the rules, for he will have had a fair opportunity to understand just what they are. I make that motion.

MR. KNOX—Mr. President, the Committee on Rules have devoted several days to studying this question. They have examined the rules adopted in the Constitutional Convention of Louisiana, of Mississippi and of South Carolina, and the rules of the former House of Representatives of this State, and we think we have selected with great care those rules that will be best adapted to the purposes of this convention. There are a great many important questions arising constantly, and governed as we have been for several days by general parliamentary law, it is exceedingly difficult to reach correct conclusions, as authorities differ so widely as to what does constitute general parliamentary law. It seems to me that the business of the convention would be advanced by adopting these rules at this session, and not by a postponement. I therefore oppose the motion of the gentleman to indefinitely postpone consideration.

MR. MACDONALD—It seems to me that the result suggested by the gentleman from Montgomery could be obtained very easily by having these rules printed. For the rules to be adopted as reported and ordered printed.

MR. KNOX—It is my purpose to move to print immediately after adoption.

MR. MACDONALD—Very good.

THE PRESIDENT, PRO TEM.—The Chairman of the Committee moved the adoption of the rules, and the gentleman from Montgomery moved an indefinite postponement.

MR. HARRISON—In addition to what has been said by the Chairman of the Committee I desire to add that this committee after a laborious session of several days felt that it was our duty after examining closely all the rules referred to by the chairman have made this report. It may not be perfect, but we have heard very few objections and it occurs to me that in half an hour here, if the gentlemen desire to amend these rules, it can be done, and have them explained in detail. If we postpone these rules as they provide for the appointment of committees, it delays the entire convention either until tomorrow, or until they are considered. Our organization is not complete. Committees cannot be appointed, and the Convention necessarily cannot work. If we find any hardship or anything wrong with them, we have a right to change them. It is in order to enable the Convention to commence the work devolving upon it, that I trust that if there are objections, they will be pointed out now, at this session, and that the rules will be adopted today, so that the organization of the Convention can be completed and the Convention really go to work on tomorrow.

MR. PILLANS FAVORS POSTPONEMENT OF REPORT

MR. PILLANS—I feel the greatest confidence in the sagacity, patriotism and prudence of the gentlemen who constituted the Committee on Rules, who have spent more time than I and few other gentlemen have spent on this question, but the suggestion which is made shows the force of the motion of the gentleman from Montgomery to substitute and the reason for it. It is suggested by the gentleman from Lee that we will lose time by postponing. I think that I can show that we will not. It is suggested by him that to save time we should pass the rules as they have been presented, after such amendments are made as this body shall deem to be requisite, if any are made which meet the approbation of the body, and therefore all such suggestions should be made now, debated now and the rules, as then amended, adopted. Well I confess that I was unable throughout the reading of these rules, thoroughly to understand and appreciate all of them, and the questions that have been asked indicate that other gentlemen more sagacious than I, have met with the same difficulty. It is very possible that if the rules be printed and they go over until tomorrow, it will be found that there are no objections to them, but the adoption of the rules of this body means the adoption of a system of government which cannot be changed after we are started, unless so onerous in some particular that a majority of the members want it changed and sustain a motion to that effect. Is not it better therefore to know what we are doing before we do it? Is not it better that the code of rules be known to the members before we

vote for them. Is it not better that not only should the gentlemen who have been very dilligently and ably working at the rules should know what is in the rules but all the other members should know.

Now I will state what occurred to me when the rules were read. It occurred to me that there was some embarrassment in one or two of the most material rules and that is the reason that I suggested, if I might say so, to my friend from Montgomery, to make the motion, when he asked the question. It occurred to me, sir, that there might be some considerable embarrassment in the framing or caption of ordinances. I know that the rules of the Committee did not intend to have that and I do not know that I should be able to improve upon the rules suggested, but it would be very nearly impossible for any gentleman to point out what it might be, or ought to be, or to improve on it, after he has heard it with his ears and not having seen it, by just asking the clerk to read it afresh. Now that is the rule which requires that each ordinance shall be entitled with the section and article which it refers to. I do not know that I use the exact language. Now I take it, we are here to make a Constitution, and not here to amend the present Constitution except as all laws amend existing laws and that may prove to be a very troublesome article. It may be that it will lead to considerable debate and argument as to what are the particular titles of the present Constitution that are affected by others which are offered. I shall support, therefore, the motion of the gentleman from Montgomery to print and lay over for consideration until tomorrow. There will be no delay. I think if the Journal of the Convention is referred to it will be found that we have already ordered standing committees. Am I right, Mr. President?

The President pro tem assented to the statement.

MR. PILLANS—We have ordered the standing committees, precisely in the same order as now stated in the report. The Committee brought in a partial report and we adopted it, and there is nothing to be gained by going further with this report of the Committee.

GOVERNOR OATES—May I inquire of the Chairman of the Committee if there is any rule—I did not notice it if there is—by which the vote is prescribed to change or amend the rules.

MR. KNOX—Two-thirds. That is the usual parliamentary practice.

MR. LOMAX—It requires two-thirds to suspend a rule, but a majority—

MR. KNOX—I beg the gentleman's pardon; it requires two-thirds to suspend a rule, but a majority to amend the rule after one day's notice.

GOVERNOR OATES — That is much more liberal. Mr. President, I find from the reading but one rule that I doubted, and I have some assurances that will be amended and made more definite, and then, for myself, I do not care for the motion. I think I understand the rules very well and while it is in the possession of the Convention if anybody objects to it I desire to withdraw the motion, but if any one objects, I will not withdraw it—

MR. KNOX—I will state for the information of the Convention that it is the purpose of the Committee on Rules to move an amendment to meet the objection raised by the gentleman from Montgomery as to call for a division, and I might state now that rule three shall be amended so as to provide that upon a vote being taken, the Chair shall announce that one or the other side of the question seems to have, it and wait a reasonable time for a demand for a division, when if no such motion is made, the chair shall state—if no such demand is made, the chair shall announce the result of the vote.

GOVERNOR OATES—I am satisfied with that.

THE PRESIDENT PRO TEM.—The gentleman from Montgomery asked leave to withdraw the motion to postpone until tomorrow, if there is no objection. The chair hears none, and the question is on the motion that the rules of the committee be adopted.

GOVERNOR JONES (Montgomery)—I have no objection to that motion, if I may be permitted to call attention to one rule. Rule 23, I think, requires all resolutions to be referred to the Committee on Rules, or at least I think it is twenty-three.

Rule 23 read.

GOVERNOR JONES—That is not the one. It is the rule that requires all motions to be referred to the Committee on Rules.

MR. KNOX—All resolutions—

GOVERNOR JONES—I hope the Committee will modify that rule. For instance, some gentleman might have a motion that has been referred to the Committee on Rules, and he might wish to offer a resolution to discharge them from the consideration of it, or to compel them to report it. Under the letter of that rule, such resolution would have to be referred to the Committee on Rules.

MR. PETTUS—I rise to a question of information.

THE PRESIDENT PRO TEM.—The gentleman will state his point of inquiry.

MR. PETTUS—Do I understand the amendment proposed by the chairman of the committee has been adopted and incorporated in the rules?

THE PRESIDENT PRO TEM—The chair does not understand any amendment has been proposed, but that the chairman has given the convention the information that an amendment will be proposed.

MR. KNOX—I am directed by the Committee on Rules to move to amend Rule 3, which reads as follows: "He shall rise to put a question, but may state it sitting. All questions shall be distinctly put in this form: 'Those in favor (as the question may be) say aye, and after the affirmative vote has been expressed, those opposed to the motion say no. Now the committee offers this amendment to be inserted at that place in the rule: "Upon the vote being taken, the chair shall announce that one or the other side of the questions seems to have it, and wait a reasonable time for a demand for a division, when, if no such demand is made, the chair shall state the decision."

The question was put upon the adoption of the amendment, and the amendment was adopted.

GOVERNOR JONES (Montgomery)—Now I would like to have the Secretary read Rule 28.

Rule 28 read.

GOVERNOR JONES OPPOSES RULE 28

GOVERNOR JONES — Now, Mr. President, I submit that that rule is entirely too broad, and that in the progress of the debates and proceedings of this body, numerous points of order will be made on it, and numerous rulings made which would be avoided by modifying it in such respects. Now, I have been on Committees on Rules myself, and I do not mind confessing that sometimes members of the Committee on Rules, when there is a proposition that they do not like, or they do not think it is advisable to have aired, to use slang expression, they set down on it. Now, a membed may have a proposition before that committee that he wants to get before this House. Certainly he ought not to be required to make a motion to discharge the committee, and then have that motion passed on by that committee. There are other matters, Mr. President; motions relating to the privileges of members or the privileges of the House, and the like, and I hope that the committee will modify that rule in those particulars. I will make the motion myself, Mr. President. I move that that rule be amended by adding "except motions relating to the privileges of the convention or of the members thereof; motions to discharge the Committee on Rules from the consideration of resolutions, or to require them to report a resolution at a given time; motions to reconsider, and motions to adjourn."

The President pro tem. asked that the amendment be reduced to writing.

GOVERNOR JONES (Montgomery)—Mr. President, I withdraw the amendment that I offered verbally, and, by consent, move to add to the end of the rule, "Except resolutions relating to the privileges of the convention or its members; the orders of the day; motions to discharge the Committee on Rules from consideration of a resolution, or to order it to report back by a day certain. "Now, I offer that as an amendment to the rule.

MR. BOONE—Don't you think it would be well to put in there, "Resolutions or ordinances" as they seem to draw a distinction between resolutions and ordinances?

MR. KNOX—The committee is willing to accept the amendment offered by the gentleman from Montgomery.

THE PRESIDENT PRO TEM. — The question is on the adoption of the amendment proposed by the gentleman from Montgomery.

MR. KNOX — The committee accepts the amendment and makes it a part of the original report.

MR. BULGER—Mr. President, in voting upon these rules sir, I must confess that just hearing one reading, I am not sufficiently familiar with the rules to vote intelligently upon their adoption, and when I come to vote I put my whole faith in the profound confidence I have in this Committee on Rules. So I hope the Convention will pardon me for calling for the re-reading of rule 25 on the question of the order and dignity of motions.

Rule 25 was read.

The President pro tem. stated the question was on the adoption of the rules.

MR. SANFORD—I ask for a reading of the amendment proposed by the gentleman from Montgomery.

THE PRESIDENT PRO TEM.—That has been accepted by the Committee on Rules. Do you wish the rule read as amended?

MR. SANFORD—Yes, read it as amended.

This was done.

MR. JENKINS—It has always been the practice in the legislature before adopting the rules to have them printed for the information of the members. I do not see how we can vote intelligently to adopt a system of rules just from hearing them read over as a whole here. I think we ought to postpone the adoption of the rules until they can be printed and placed on the desks of every member, and then each member can decide whether he is satisfied with them as they are or whether he wants to amend any of them. There are some amendments I had in view that I would like to offer, but I am not in a position just now to know how to

vote intelligently on them. I suggest that we postpone the adoption of the rules until they are printed so that we can agree on them and I trust Governor Oates will make that motion—I will myself move that the rules be printed and placed on the desk of each member before adoption.

GOVERNOR OATES—I withdrew that motion awhile ago because I was satisfied with the amendation of Rule 3, but I find that several gentlemen are still in the fog about some of them and do not understand them. Several of them think that the rule requiring a two-thirds vote to call any matter from a committee to which such matter may have been referred is wrong, that it ought to be only a majority vote. I do not recall myself what the number of the rule is. It shows, however, that the motion to postpone and print has a good deal of force in it and a good many of the delegates want that done. I am perfectly satisfied but a good many of the gentlemen desire that the rules should be printed before adopted. I hope if that is done it will not delay the proceedings for I believe the former action of the Convention authorized the appointment of the committees just as this report from the Committee on Rules so that the proceedings will not be delayed. I don't remember the rule—

THE CLERK—It is 43.

GOVERNOR OATES—Then before a vote is taken I would like to have that rule read.

Rule 43 was read.

MR. JENKINS—That was the main rule I had in view when I made that motion, and if that rule is changed, I am satisfied.

MR. KNOX—Rule 57 provides that on one day's notice any member may propose an amendment to any of these rules. If in the operation of the rules it should at any time be found necessary to make any amendments or alterations, the Convention can do so.

MR. SPEARS—I want to ask the gentleman a question.

THE PRESIDENT PRO TEM.—Does the gentleman yield to a question?

MR. KNOX—Certainly.

MR. SPEARS—Suppose I give notice to-day that I will introduce a resolution tomorrow to change any rule and that rule is referred to the Committee on Rules, will it take a two-thirds vote of the convention to bring in a report from that committee.

MR. KNOX—The chairman of the committee is of the opinion that it will, to recall any question from a committee, under the rules, requires a two-thirds vote.

MR. SPEARS—I want to ask a further question.

MR. KNOX—Certainly.

MR. SPEARS—Don't that destroy the majority rule or the power of the majority of the convention to change the rules, the fact that it would require two-thirds to take it away from the committee?

MR. KNOX—That is simply assuming that if a sensible proposition were made, the Committee on Rules would oppose it; and I do not think any member has a right to make such an assumption.

GOVERNOR OATES—If the gentleman will allow me, let me suggest an amendment which will obviate all objections. Instead of requiring a two-thirds vote, let it be changed so as to require a majority of the whole number and with that change it will be satisfactory.

MR. KNOX—We ask unanimous consent to change the rule by inserting "a majority" instead of the two-thirds.

The consent was given and the amendment made.

MR. BURNETT—When you accept the suggestion made by the gentleman from Montgomery, don't you make it more difficult to secure a change? Suppose there are only 100 members present. Half of 155 would be 78 and you would be in a worse fix than you would be if you required only two-thirds of those present.

CONVENTION ADOPTS THE RULES REPORTED

MR. KNOX—There is this suggestion: The great work of the convention will be done in Committee, and after a committee has devoted days and days to the consideration of a question and has reached a conclusion that it is unwise, it seems to our Committee better that to take that matter from the Committee and bring it before the body, something more than a mere majority should be required and, therefore, we accept the suggestion from the gentleman from Montgomery. We have been in session since Tuesday and we have done very little and that is the reason this committee on rules is anxious that these rules shall be adopted today in order that the convention may get down to the important work before it. We, therefore, hope that the convention will proceed this morning with the adoption of the rules.

MR. JENKINS—I withdraw the motion to postpone.

Vote being taken viva voce, the report of the committee, as amended, was postponed.

THE PRESIDENT PRO TEM.—The secretary will call the first order of business.

THE CLERK—The roll call, calling alphabetically the roll of delegates to introduce resolutions, memorials—

MR. CUNNINGHAM—I rise to a point of order, under a resolution previously adopted, ordinances and resolutions having reference to the amendment of the Constitution are not in order until the committees have been announced.

THE PRESIDENT PRO TEM.—The Chair is of opinion the point is well taken.

MR. BULGER—I offer a resolution and I move to suspend the rules that it be adopted.

The resolution, which appears later, as offered by Mr. Bulger with reference to education was read.

THE PRESIDENT PRO TEM.—That will go to the proper committee when raised.

MR. GRAHAM (Talladega)—I offer a resolution.

The resolution was read as follows:

JOSEPH B. GRAHAM—

Resolved, by this convention that our President is hereby requested to extend an invitation to Dr. Jabez L. M. Curry of Washington, D. C., to address this convention on the subject of public education at his earliest convenience. The specific time and arrangement to be fixed by the convention upon reply from Dr. Curry.

THE PRESIDENT PRO TEM.—That will be referred to the Committee on Rules.

MR. LOMAX—I move that 500 copies of the rules just adopted be printed for use of gentlemen of the convention.

MR. OATES—In pamphlet form?

MR. LOMAX—I will add in pamphlet form at the suggestion of the gentleman from Montgomery.

The motion was carried.

President Knox here resumed the chair.

MR. COLEMAN (Greene)—I have a resolution.

The resolution was read as follows:

First, Resolved, That the rate of taxation relative to the State, counties and municipalities as fixed by the present constitution shall remain unchanged.

Second, No County, sub-division of a County, District or municipality, shall be authorized to issue bonds, or make contract involving pecuniary obligations, which are matured at a later period than twelve months from the date of such issue, or contract, without first having been approved by a majority vote by ballot of the qualified voters of such counties, sub-division, district or municipality; by an affirmative vote in favor of such issue or contract, and in determining the result of any election held for this purpose, no vote shall be counted as an affirmative vote, which does not show on its face that such vote was cast in approval of such issue or contract—any legislative provision to the contrary notwithstanding.

To be referred to proper Committee.

MR. KNOX ANNOUNCES STANDING COMMITTEES

THE PRESIDENT—The Chair will announce the standing committees, and the first gentleman named on any committee will be the chairman of that committee.

The committees were as follows:

Committee on Judiciary—Smith of Mobile, Lowe of Jefferson, Walker, Pillans, Fitts, Watts, Ferguson, Hood, Coleman of Walker, Cobb, Graham of Montgomery, Samford, Willett, Merrill, Tayloe, Leigh, NeSmith, Duke, Espy, Davis of DeKalb, Ashcraft, Wilson of Clarke, Heflin of Randolph, Kirk, Jones of Hale.

Committee on Order, Consistency and Harmony of the Whole Constitution.—White, Selheimer, Spraggins, Jones of Montgomery, Williams of Barbour, Heflin of Chambers, McDonald, Davis of DeKalb, Davis of Etowah, Weakley, Sollie, Craig, Martin, Pillans, Beddow, Moody, Carmichael of Colbert, Foster, Sorrell, DeGraffenreid, Norman, McMillan of Wilcox, Sanford, Sentell, Beavers.

Committee on Suffrage and Elections—Coleman of Greene, White, Miller of Wilcox, Walker, Oates, Weatherly, Smith of Mobile, Jones of Wilcox, O'Neal of Lauderdale, Stewart, Howze, Pitts, DeGraffenreid, Morrissette, Rodgers of Lowndes, Eyster, Glover, Chapman, Graham of Talladega, Grant Hood, Harrison, Dent, Parker of Cullman, Handley.

Committee on Legislative Department. — Oates, Weatherly, Brooks, Macdonald, Heflin of Chambers, Lowe of Jefferson, NeSmith, Carnathan, King, Leigh, Jackson, Espy, Chapman, Pettus, Lowe of Lawrence, Reese, Rodgers of Sumter, Porter, Sloan.

Committee on Local Legislation — O'Neal of Lauderdale, Watts, Vaughan, Whiteside, Almon, Sanders, Greer of Calhoun, Proctor, Wilson of Washington, Haley, Glover, Burnett, Waddell, Inge, O'Rear, Reynolds of Henry, Kyle, Banks, Reynolds of Chilton.

Committee on Education—Graham of Talladega, Ashcraft, Pettus, Bulger, Jones of Wilcox, Tayloe, Rodgers of Sumter, Robinson, Williams of Barbour, Reese, Renfro, Opp, Miller of Marengo, Inge, Locklin, Hodges, Altman, Bethune, Mac A. Smith.

Committee on Taxation—Browne, Pillans, Harrison, Handley, Craig, Pearce, Kyle, Long of Butler, Searcy, O'Neill of Jefferson, Maxwell, Burnett, Winn, Kirk, Martin, Coleman of Greene, Cunningham, Carnathan, King.

Committee on Executive Department—Jones of Montgomery, Fitts, Lomax, Sanford, Duke, Hodges, Norwood, Smith, M. M., of Autauga, Vaughan, Williams of Marengo, Jenkins, Carmichael of Coffee, Howell, Spears, Hinson.

Committee on Preamble and Declaration of Rights—Lomax, Vaughan, Eyster, Fitts, Wilson of Washington, Brown, Cornwell, Barefield, Bethune, Carden, Carmichael of Coffee, Case, Blackwell, Bartlett, Phillips.

Committee on Corporations—Harrison, Rogers of Lowndes, Searcy, Graham of Montgomery, Coleman of Walker, Wilson of Clarke, Proctor, Ferguson, Williams of Marengo, Opp, Long of Butler, Burnett, Almon, Murphree, Cofer.

Committee on Representation.—Pitts, Williams of Marengo, Bulger, Knight, O'Rear, Grayson, Almon, Greer of Perry, Davis of Etowah, Carden, Jenkins, Greer of Calhoun, Hinson, Norman, Gilmore.

Committee on Exemptions. — Howze, O'Neill of Jefferson, Burns, Selheimer, Sorrell, Heflin of Randolph, Stewart, Morrissette, Long of Walker, Banks, Palmer, Reynolds of Henry, Eley, Grayson, Williams of Elmore.

Committee on Militia.—Wilson of Clarke, Greer of Calhoun, Jones of Montgomery, Spraggins, Burns, Waddell, Henderson, M. M. Smith of Autauga, Sanders, Palmer, Jones of Bibb, King, Williams of Elmore, Stoddard, Freeman.

Committee on Banks and Banking—Fletcher, Handley, Cornwell, Ledbetter, Brooks, McMillan of Baldwin, Malone, Renfroe, Dent, Searcy, Parker of Cullman, Maxwell, Eley, Winn, Reynolds of Chilton.

Committee on Municipal Corporations — Weakley, Boone, Fletcher, McMillan of Baldwin, Beddow, Sanford, Howell, Parker of Elmore, Pearce, Whitesides, Knight, Kirkland, Mulkey, Phillips, Byars.

Committee on State and County Boundaries—Parker of Cullman, Reese, Beavers, Jenkins, Cobb, Miller of Marengo, Sentell, Parker of Elmore, Thompson, Moody, Gilmore, Jackson, McMillan of Wilcox, Malone, Blackwell.

Committee on Impeachments—Hood, Miller of Wilcox, Grant, Haley, Sorrell, Bulger, Lowe of Jefferson, Merrill, Henderson, Long of Walker, Robinson, Mac A. Smith of Autauga, Thompson, Willett, Cofer.

Committee on Amending the Constitution and Miscellaneous Provisions—Foster, Merrill, Jones of Hale, Boone, Altman, Burns, Ledbetter, Norwood, Haley, Cunningham, Sollie, Sentell, Barefield, Lowe of Lawrence, McMillan of Wilcox.

Committee on the Journal—Proctor, Wilson of Clarke, Carmichael of Colbert, Kirkland, Foshee.

Committee on Schedule, Printing and Incidental Expenses—Heflin of Randolph, Greer of Perry, Locklin, Wilson of Washington, Barefield, Henderson, Carmichael of Coffee, Murphree, Jones of Bibb.

THE PRESIDENT—The regular order of business will be the calling of the roll. Calling alphabetically the roll of the delegates to introduce resolutions, memorials, petitions, ordinances and their proper references.

The roll was called.

MR. BOONE—I offer a resolution.

The resolution was read as follows:

Resolved, That the Secretary of this convention be, and is hereby, instructed to reserve five copies of printed stenographic reports of the proceedings of this convention, and when said report is completed, cause the same to be bound and deposited in the office of the Secretary of State.

Referred to Schedule, Printing and Incidental Expenses Committee.

MR. WATTS—I have a resolution on that same subject which I would like to have take the same course.

The resolution was read as follows:

Resolved, That the official stenographer be required to deliver each day to the Secretary of State 250 of the 1,000 printed copies of the report of the proceedings of the convention for the previous day.

Resolved further, That it should be the duty of the Secretary of State to preserve said 250 copies of said proceedings for such use as the General Assembly may direct.

Same reference.

MR. BROOKS PRESENTS THE FIRST ORDINANCE

MR. BROOKS—I have a resolution.

The resolution was read as follows:

To Amend Sec. 3 of Article 11 of the Constitution.

Resolved, That Section 3 of Article 11 of the Constitution be amended so that it shall read as follows:

After the ratification of this constitution, no new debt shall be created against, or incurred by, this State or its authority, except to repel invasion, or to suppress insurrection, and then only by a concurrence of two-thirds of the members of each house of the General Assembly, and the vote shall be taken by yeas and nays, and entered on the journals; and any act creating, or incurring any new debt against this State, except as herein provided for, shall be absolutely void; provided, the Governor may be authorized to negotiate temporary loans, never to exceed three hundred thousand dollars, to meet deficiencies in the treasury; and until the same is paid, no new loan shall be negotiated; provided, further, that this section shall not be so construed as to prevent the refunding, from time to time, of the bonded indebtedness of the State.

The resolution was referred to the Committee on Taxation.

MR. BROOKS—I desire to call the attention of the Chair to the fact that there is another committee which all motions, ordinances or resolutions to amend the constitution shall be submitted and I would like to have the ruling of the Chair on the point. This is a motion to amend, not an original ordinance or something outside of the constitution.

THE PRESIDENT—The Chair understands that all motions and all propositions that will be submitted will relate to amendments to the constitution because the call of this convention is so expressed "To amend, alter or change the Constitution."

MR. BROOKS—I have another resolution.

The resolution was read as follows:

Resolved, That Section 1, of Article 12 of the Constitution be so amended that it shall read as follows:

1. All able bodied male inhabitants of this State, between the ages of 18 years, and 45 years, who are citizens of the United States, or have declared their intention to become such citizens, shall be liable to military duties in the militia of the State. And the General Assembly may provide for the organization from among such citizens of a State Naval Militia.

Referred to Committee on Militia.

THE PRESIDENT—The Chair would state to the convention that under the rules adopted, propositions for the amendment of the Constitution will be called ordinances and other propositions, resolutions. That rule was adopted for the convenience of the clerks in keeping a record of the proceedings of the convention.

MR. BROOKS—In the absence of any rule, I merely put it in the form of a resolution. I noticed that was the form in which the federal convention put it. I have another resolution.

The resolution was read as follows:

Resolved, That Section 23 of Article 14 of the Constitution be stricken out, and the following substituted:

No public officer, or person elected or appointed to a public office under the laws of this State, shall directly or indirectly ask, demand, accept, receive or consent to receive for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege or discrimination in passenger, telegraph or telephone rates, from any person or corporation, or make use of same himself or in conjunction with another. A person who violates any provision of this section, shall be deemed guilty of a misdemeanor, and shall forfeit his office at the suit of the Attorney General. Any corporation, or officer, or agent thereof, who shall offer, or promise to a public officer, or person elected or appointed to a public office, any such free pass, free transportation, franking privilege or discrimination, shall also be deemed guilty of a misdemeanor, and is liable to punishment except as herein provided. No person, or officer or agent of a corporation giving any such free pass, free transportation, franking privilege or discrimination hereby prohibited, shall be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving of the same.

Referred to Committee on Corporations.

MR. BROOKS—I wish to say that resolution or amendment is not original with me. I copied it literally from the New York Constitution of 1895.

MR. BROWNE—I have an ordinance.

The ordinance was read as follows:

An ordinance to amend Section 1 of Article 13 of the Constitution. (Relates to Public Schools.)

Be it ordained that Section 1 of Article 13 of the Constitution of 1875 be, and the same is hereby amended to read as follows:

Section 1. The General of Assembly shall establish, organize and maintain, a system of public schools throughout the State for

the benefit of the children thereof, between the ages of 7 and 21 years; Provided, separate schools of the same length of term as those provided for other children, shall be provided for the children of African descent.

Referred to Committee on Education.

Mr. Bulger's resolution heretofore handed in was read as follows:

Resolved, That whereas, The prosperity and welfare of our State depends upon the intelligence and integrity of our people.

That whereas, In the past few years we have made rapid and permanent progress in providing facilities for educating the children of our State. Therefore, be it

Resolved, It is the sense of this Convention that no backward step in education shall be taken, but this grand work will go on until a free public school is placed within reach of every white child in Alabama.

Referred to Committee on Taxation.

MR. BURNS—I have a resolution: That the present limit of taxation, State, county and city shall not be increased.

Referred to Committee on Taxation.

The resolution of Mr. Coleman (Greene), heretofore read, was referred to Committee on Municipal Corporations.

MR. EYSTER—I have a resolution: Resolved, that the names of the various committees be printed in the same pamphlet heretofore ordered printed to contain the Rules of this Convention.

MR. EYSTER—I move that the rules be suspended and that that resolution be put on its passage.

A vote being taken the rules were suspended.

DR. CUNNINGHAM—I want to amend the original motion by inserting the names of the officers of the Convention also.

A vote being taken the amendment was adopted.

DR. CUNNINGHAM—I also move that an alphabetical list of the delegates and the Country or District they represent and their postoffice addresses be inserted.

This amendment was adopted and a vote being taken the resolution as amended was agreed to.

MR. GREER (Calhoun)—I move that we adjourn until tomorrow morning at 11 o'clock.

GOVERNOR JONES—Will the gentleman allow me to make a suggestion? There are a good many resolutions and ordinances the gentlemen would like to order and I move that they be sent up to the clerk's desk and be printed. This motion was withdrawn immediately as was also the motion of the delegate from Calhoun to adjourn.

GENERAL HARRISON—I have a resolution.

The resolution was read as follows:

An ordinance to prohibit vagrants from voting in this State.

First—Be it ordained by the people of Alabama in Convention assembled, that no vagrant, as now defined by the statutes of Alabama, shall be allowed to vote at any election in this State.

The resolution was referred to the Committee on Suffrage and Election.

MR. HENDERSON—I offer a resolution.

Resolved, That the new Constitution provide that the General Assembly of Alabama shall have no power to enact any law in aid of our pertaining to the removal of the seat of government of this State from where it is now located.

Referred to the Committee on Legislative Department.

Mr. Henderson also offered the following resolution.

Resolved, That it be provided by the new Constitution, that representation in the General Assembly be based on population of all the people.

Referred to Committee on Representation.

MR. WILSON (Clarke)—I move that the Convention adjourn until tomorrow morning at 11 o'clock.

The motion was seconded and was carried and the Convention adjourned accordingly.

SIXTH DAY

MONTGOMERY, ALA.,
May 28, 1901.

The Convention was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Anderson as follows:

O Lord God, Almighty, Thou who dost watch over us and care for us, we come to Thee at the beginning of the labors of another day to seek Thy blessing and we pray Thee that as Thou hast caused the sun to rise and chase away the darkness of the night that Thou wouldst cause to shine into all our hearts the knowledge of the light and glory of God as it shines in the face of Jesus Christ. We pray Thee to send Thy blessings upon the hearts of Thy servants assembled here to conduct the business to which they have been by Thy Providence called. May every member of this Constitutional Convention feel that the voice of God, and we pray Thee that they may seek to discharge the high and solemn obligations of their office in the fear of God. May they put aside from them all selfseeking and all personal interests and may they discharge the functions of their high calling with a sense of their duty to their fellow man and their duty to the country and their God and we pray Thee as Thou wouldst give to them to feel the burden and responsibility of these great problems that Thou wouldst give to them also to feel their dependence upon the guidance of Almighty God. For these things we ask and for the pardon of our sins, through Jesus Christ, our Lord, Amen.

The roll was called and showed the presence of 130 delegates.

THE PRESIDENT—The first business is the report of the Committee on Journal.

MR. deGRAFFENREID—Before that is taken up, I desire to ask leave of absence for today and tomorrow for Mr. J. J. King of Marengo County.

The leave was granted.

MR. OATES—Mr. President, I desire to ask leave of absence for Mr. Pitts until Friday.

The leave was granted.

MR. SAMFORD (Pike)—I desire to ask leave of absence for Mr. Pettus of Limestone, for today.

The leave was granted.

MR. SOLLIE—I wish to ask leave of absence for myself for tomorrow and the next day.

The leave was granted.

MR. OATES—I desire to ask leave of absence for the delegate from Barbour, Mr. Dent, for today, tomorrow and the next day.

The leave was granted.

MR. ROGERS (Sumter)—I desire to ask indefinite leave of absence for Mr. Jones of Hale, who is called home on account of sickness.

The leave was granted.

MR. MORRISETTE—Yesterday I respectfully asked permission, and it was granted by the House, for Mr. Pierce and Mr. Haley. I notice the stenographic report does not include these gentlemen.

THE PRESIDENT—The Journal shows that leave was granted.

MR. WATTS—I desire to ask leave of absence for today and tomorrow for Mr. Reynolds of Chilton, and for myself for tomorrow and Saturday.

The leave was granted.

MR. GREER (Calhoun)—I desire to ask leave of absence for today for Mr. Long of Butler.

The leave was granted.

DELEGATE FROM LIMESTONE—I desire to ask leave of absence for today for Mr. Pettus of Limestone.

THE PRESIDENT—Leave has already been granted.

MR. REESE—I desire to ask leave of absence for today for Mr. Craig of Dallas.

The leave was granted.

The President called for the reading of the report of the Committee on Journal.

MR. BULGER—I see on the last line of the second page of the stenographic report that it makes it appear that the resolution on education, offered by me on yesterday, was referred by the President of the Convention to the Committee on Taxation, which I am sure, is a mistake. My recollection is clear that the resolution was referred to the Committee on Education.

THE PRESIDENT—The gentleman is correct. The journal shows it was referred to the Committee on Education.

MR. WADDELL—I asked leave of absence yesterday. The stenographic report fails to show it.

THE PRESIDENT—The journal shows leave was granted. The next thing in order is the report of the Committee on Journal.

MR. CARMICHAEL (Colbert)—Before making the report, I wish to call the attention of the convention to Rule 50, which requires that all proposed ordinances be written on entire sheets of paper. Unless this rule is observed, it will be impossible for the Secretary to properly endorse and copy these papers.

THE PRESIDENT—The chairman of the committee will send up the report of the Committee on Journal.

The report was read stating that the journal was found to be correct, and, on motion, the report was adopted.

MR. EYSTER—On yesterday I asked and obtained leave of absence for Mr. Parker of Cullman.

THE PRESIDENT—The chair is of the opinion, unless dispensed with by some motion, that the next order of business would be the reading of the journal.

MR. deGAFFENREID—I move that the reading of the journal be dispensed with, and that is be referred to the Committee on Journal.

MR. JONES—What is the use of leaving it to the Committee on Journal when they have reported that it is correct?

THE PRESIDENT—The reading should be dispensed with by a motion, then.

MR. OATES—I rise to say that I think it is very bad practice to dispense with the reading of the journal, but in this case we have a Committee on Journal, and, for that reason, I don't see the necessity of reading it.

THE PRESIDENT—The gentleman from Hale moves that the reading of the journal be dispensed with.

MR. BEDDOW—I think that the journal of the proceedings of the convention should be read every morning. Of course, where the journal is encumbered by matters like the Committee on Rules yesterday, that should be dispensed with, but when we argue and vote upon questions of importance, questions upon which we are put on record, I think the journal should be read. The reading of the journal that we have had so far shows the necessity for the reading, because if the journal had been permitted to remain as it was the first day, this convention would have been put in the attitude of voting against opening this convention with prayer, and I hope the convention won't adopt that motion, because I think it is of great importance that the journal should be read every morning, and I move to lay that motion on the table.

Vote being taken, the motion to lay it on the table was lost on a division vote: 46 yeas and 60 noes. And a further vote being taken, the motion to dispense with the reading of the journal was carried.

MR. REESE—On the fourth day of this session this Convention made an order by the adoption of the report on stenographic work requiring a complete stenographic report of all the proceedings of this Convention. I observe that the prayers that have been

made in behalf of this Convention, have been left out of this report. It strikes me it is contrary to the order that the House made and that the prayers of all the proceedings should be embodied in the report.

THE PRESIDENT—The Chair will direct the stenographer hereafter to include the entire proceedings. The next order of business is the call of the roll in alphabetical order for the introduction of resolution, memorials, petitions and ordinances and their proper reference.

MR. HODGSON—I offer an ordinance.

The ordinance was read as follows:

Ordinance No. 6, by Mr. Hodges:

Be it ordained that Section 2 Article 11 of the Constitution be and is hereby amended so as to read as follows:

Section 2. No power to levy taxes shall be delegated to individuals or private corporations; Provided, that the General Assembly may confer upon the trustees of the separate school districts or townships, the power to call an election for each such district or township at which election the qualified electors shall determine by ballot whether a special tax of not more than one-fourth of one per cent shall be levied upon the taxable property of such district or township; Provided, further, that all taxes so levied and raised shall be applied exclusively to the education of the children of legal school age residing within such district or township. Provided, further, that no resident of such district or township shall be allowed to vote in such election unless he shall pay taxes on real and personal property to the amount of five hundred dollars.

Referred to Committee on Education.

MR. HOWELL—I offer a resolution.

The resolution was read as follows:

By Mr. Howell—

Resolved, That the daily session of this convention shall begin at 10 o'clock a. m., and adjourn at will.

This resolution was referred to the Committee on Rules.

An ordinance by Mr. Howell was read as follows:

Ordinance No. 7, by Mr. Howell.

To amend Section two, Article two of the Constitution of Alabama relative to the area of counties.

Be it ordained by the People of Alabama, in convention assembled, That Section two of Article two of the Constitution be amended so as to read as follows:

Sec. 2. The boundaries of the several counties of this State as heretofore established by law are hereby ratified and confirmed. The General Assembly may, by a majority of all the members of both houses thereof arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered, except by a like vote, but no new county or counties shall be hereafter formed of less extent than four hundred square miles, and no new county shall be formed which does not contain a sufficient number of inhabitants to entitle it to one representative under the ratio of representation existing at the time of its formation, and leave the county or counties from which it is taken with the required number of inhabitants, entitling such county or counties to separate representation.

Referred to the Committee on State and County Boundaries.

MR. HOWZE—I offer a resolution.

Resolution offered by Mr. Howze was read as follows:

THE PRESIDENT—The Secretary will read the resolution, but the Chair feels it his duty to call the attention of the gentleman to the fact that it is contrary to the rules of the house because it is not written on an entire sheet of paper. I hope members will observe this rule as it greatly facilitates the transaction of business.

MR. HOWZE—I did not think of the rule because we only had the rule yesterday.

The ordinance was read as follows:

Be it ordained by the people of Alabama in Convention assembled, That the Governor may veto any part or parts of any appropriation bill, and approve part of the same and the portion approved shall be law.

Be it ordained, by the people of Alabama in Convention assembled, That the salary or fees of any public officer shall not be increased during his term of office.

Referred to Committee on Amending the Constitution and Miscellaneous Provisions.

MR. HOWZE—I offer another ordinance.

The ordinance was read as follows:

Be it ordained by the people of Alabama, in Convention assembled, That there shall be a Lieutenant Governor of this State, who shall be elected at the same time, in the same manner and

for the same term, and who shall possess the same qualifications as required of the Governor.

Be it further ordained, That the Lieutenant-Governor shall by virtue of his office, be President of the Senate. In committee of the whole he may debate all questions, and when there is an equal division in the Senate, or on a joint vote of both houses, he shall give the casting vote.

Be it further ordained, That the Lieutenant-Governor shall receive for his services the same compensation as the Speaker of the House of Representatives, except when discharging the duties of Governor, he shall receive compensation as such.

Referred to the Committee on Executive Department.

MR. JONES (Montgomery)—I offer an ordinance.

The ordinance was read as follows:

Be it ordained by the people of Alabama in convention assembled, that Article VIII of the Constitution on suffrage and election, be amended by striking out the whole of the article, and inserting in lieu thereof the following

ARTICLE ——

Suffrages and Elections.

Section 1. That every male citizen of the United States, and every male person of foreign birth, who may have legally declared his intention to become a citizen of the United States before he offers to vote, who is twenty-one years old or upwards, who is not prohibited by Section 2 of this Article from registering, voting or holding office, shall be an elector and entitled to vote at any election by the people if such elector.

(1) Shall be duly registered, when registration is required, and shall have resided in the State at least one year, in the county six months, and in the precinct or ward, three months, immediately preceding the election at which he offers to vote, and possess either of the following qualifications:

(2) And shall have paid to the Probate Judge of the county in which he resides, on or before the 15th day of January, A. D., 1902 and not later than the 15th day of January in each succeeding year, the sum of four dollars as a contribution to the State, to be used exclusively for the support of the public schools. Payment made at a latter time in any year shall not qualify the elector; but where payments is not made within the prescribed time in one year, the elector may qualify under this clause in any succeeding year, on or before the 15th day of January, by paying four dollars for the year 1902, and a like sum for each year thereafter.

(3) Or, shall have paid, in the year preceding the year in which he offers to vote, State and county or municipal taxes to the amount of five dollars or upwards, on real or personal property, situated in this State, and

owned and duly listed by him for taxation, and shall not be in arrears to the State or county for taxes for any prior year.

(4) Or, shall have honorably served in the land or naval forces of the United States in foreign wars, or in the land or naval forces of the United States or of the Confederate States or of the State of Alabama in the war between the States.

(5) Or, shall have been admitted to the electorate by the vote of the qualified electors of the county in which he resides as hereinafter provided. The grand jury at each regular term of Circuit Court in any county in their address or report to the court, may recommend the admission to the electorate of such persons complying with the regulations of Clause 1 of this section, and not disqualified under Section 2 of this Article, as in the opinion of the grand jury, in view of the character of such persons, deserve the privilege of suffrage, although they cannot qualify under the other clauses of this section. Such recommendation shall be recorded upon the minutes of the court and copy thereof, certified by the clerk, under his official seal, shall be delivered to the Governor, who shall thereupon issue his writ of election directed to the sheriff of the county, commanding him to hold an election in said county, not more than thirty days nor less than sixty days after the receipt of the certified copy of such recommendation of the grand jury, to determine which of such persons so recommended in lieu of whom shall be named in the writ, shall be admitted to the electorate. Such election shall be held and conducted and the returns thereof made, and the result estimated and declared as is now or may hereafter be, provided by law, so far as not in conflict with this article, and the Board of Supervisors of the County shall, within ten days after the receipt of the returns estimate and count the vote and declare the result and certify the same under the hands of its members to the Probate Judge of the County giving therein the names of such persons as have been admitted to the electorate by the vote of the majority of the qualified electors of the County voting at such election, and the Probate Judge shall record the same in a book to be kept in his office for that purpose, and such persons shall be qualified electors so long as they comply with the first clause of this section, and do not come under the disqualification of Section 2 of this Article: Provided, that the number of persons admitted to the electorate by the voters of the County in any one year, shall not exceed 10 per cent of the male population of the County over 21 years of age as shown by the last census of the United States.

Sec. 2. The following classes shall not be permitted to vote, register or hold office:

(1) Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery or other crime punishable by imprisonment in the penitentiary.

(2) Any person who shall hereafter be guilty and being convicted of selling his own vote, or of buying or bartering the vote of another, in any legal election, or in any primary, caucus or convention, held to nominate persons for public office, or to elect delegates to any political convention, or who shall make, or aid in making any false count, certificate or return, as to

the result of such legal election, primary, caucus or convention, or who shall hereafter carry concealed weapons, and be duly convicted thereof.

(3) Those who are idiots or insane.

Sec. 3. After the year 1903, the General Assembly may provide, in addition to the qualifications prescribed in this article, an educational qualification for electors, except as to the class of voters named in clauses 4 and 5 of Section 1 of this article.

If an educational qualification is required, the officers or persons entrusted with the duty of passing upon the qualification of voters thereunder shall not determine the matter finally; but the persons desiring the privilege of voting, shall have an appeal as a matter of right, to the Circuit or City Court of the County, with a jury to pass upon questions of fact and from the judgment therein rendered shall have an appeal to the Supreme Court, which shall try the case de novo on the record both as to the matters of law and fact. All such appeals shall be preferred cases, and if the number of appeals is such in the Circuit or City Courts, that in the opinion of the Governor, they cannot be speedily tried, he is authorized and empowered to appoint a special judge or judges not exceeding four in number, who shall be commissioned for the term of one year, and shall be paid such compensation as the General Assembly may prescribe; and such judge or judges shall have authority and jurisdiction to sit as judges of the Circuit or City Court as the case may be, for the trial of appeals under this section—and if the number of appeals under this section to the Supreme Court, is such that in its opinion, the same cannot be speedily determined, the Governor upon the certificate of that fact from the Supreme Court, shall appoint and commission such number of special judges as the Supreme Court may advise who shall be commissioned for the term of one year who shall receive such compensation as may be provided by law, and shall sit with said Supreme Court as judges thereof in the trial and decision of said appeals.

Sec. 4. All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce. Whenever any caucus or conference shall be held by persons who can vote in a representative capacity to determine for whom they shall vote in any legal election or appointment by them, such election or appointment, shall be avoided on quo warranto proceedings, on proof that at such caucus or conference the appointment or election was determined by secret ballot.

Sec. 5. Electors shall in all cases except treason or felony or breach of the peace be privileged from arrest during their attendance at elections or while going or returning therefrom.

Sec. 6. The General Assembly shall pass all laws not inconsistent with this constitution, to regulate and govern elections in this State and all such laws shall be uniform throughout the State. The General Assembly shall by law provide for the registration of electors throughout the State, not earlier than the 15th day of February 1902 to be completed by the first day of July, 1902, except as to such persons as become of age after that time, and those who may have been prevented by sickness or absence from the

State from registering at the time appointed by law; and shall provide for the future registration from time to time, of all persons who may be entitled to register, and no person shall vote in any State or county election, unless he shall have registered as required by law.

Sec. 7. It is the duty of the General Assembly to pass adequate laws to guard against the evils arising from the use of intoxicating liquors at elections and the carrying of concealed weapons thereat.

Sec. 8. Each political party which has made nominations of persons to be voted for at any election may, under such regulations as may be prescribed by law, recommend a qualified elector to act as manager or inspector at such election and it shall be the duty of the officers invested by law with the authority to appoint managers, to appoint the persons so recommended as inspectors or managers of elections; and upon willful failure to do so, shall forfeit their offices. If there are more than three parties making nominations, then the officers shall appoint the three persons recommended by the three parties which cast the three highest votes at the last State election. Each party nominating candidates to be voted for at an election, shall have the right to appoint one watcher, to be present at each voting place, and witness the holding of the election, counting the ballots, and the making of the returns. The selection of such watchers shall be certified by the Executive Committee of the county for such party or other authority deputed by such political party to the probate judge in each county, who shall notify the managers of the names of such watchers; and any person having knowledge that the person has been so selected as a watcher who shall willfully refuse to allow such watcher to be within the voting place and witness the holding of the election, counting the ballots and making the returns or who unlawfully interferes with a watcher while so engaged, shall be guilty of a misdemeanor and on conviction shall be fined in the discretion of the court trying the case not less than five hundred nor more than one thousand dollars and may also be imprisoned in the county jail for not exceeding six months.

Sec. 9. Any person betting on the result of any legal election in this State or on the result of any primary election or convention, held to make nominations for public office or to select delegates to a political convention, shall forfeit to the State of Alabama the sum of $200, to be recovered by an action in the name of the State of Alabama, one half to go to the informer and the other half to the common school fund.

Sec. 10. No person shall vote at any primary election in any precinct or voting place, who will not be a qualified elector to vote in such precinct or voting place for the nominees of such primary at the time of the legal election; and, any person so voting at any primary election shall be guilty of a misdemeanor, and on conviction shall be fined in the discretion of the court trying the case not less than $200 or more than $500, and may also be imprisoned in the county jail not exceeding sixty days. Any person who knowingly and wilfully votes at any legal election, when he is not a qualified elector entitled to vote thereat, shall be guilty of a felony and on conviction shall be punishable by imprisonment in the penitentiary for one year.

Sec. 11. Any person buying or selling, or bartering for a vote or votes, or who knowingly aids or abets such purchase, sale or barter, at a legal election, shall be guilty of a felony, and on conviction shall be imprisoned in the penitentiary for one year. Any person buying or selling a vote or votes or bartering for a vote or votes, or who aids in so doing in any primary election, or in a caucus or political convention, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not less than $100 nor more than $500, and may also in the discretion of the court be sentenced to imprisonment in the county jail for not more than six months.

Sec. 12. Any officer of this State or manager or officer holding an election or any returning officer or any member of any Board of Supervisors who shall wilfully, and without lawful excuse, refuse or fail to perform any duty enjoined upon them by law in reference to elections shall be fined not less than $250 nor more than $500, and may also in the discretion of the court trying the case be imprisoned in the county jail for not less than three months nor more than twelve months.

Sec. 13. At any general election for members of the General Assembly which will be called upon to choose a Senator in the Congress of the United States, either because of a vacancy in the office, or the expiration of the term of a Senator there shall be opened a poll in each precinct for the expression of the choice of the qualified electors for Senator, and votes so cast shall be counted, estimated and returned and declared in all respects as votes cast for Governor.

Referred to the Committee on Suffrage and Election.

MR. JONES (Montgomery)—I offer another ordinance.

The ordinance was read as follows:

ORDINANCE

To amend Section 1 of Article VII of the Constitution by striking out the words "habitual drunkenness" and inserting in lieu thereof the following words, to wit: Drunkenness, or intemperance in the use of intoxicating liquors or narcotics to such an extent as to unfit the officer for the discharge of his duties, or degrade him in the public estimation, which shall be a question of fact in each case to be determined by the court, or jury, under the instructions of the court, in cases where there is a right to trial by jury, in view of the dignity of the office and the importance of its duties.

THE PRESIDENT—I have no copy of the Constitution before me, and I don't know what part of the Constitution you refer to.

MR. JONES (Montgomery)—Section 7, under Impeachment.

THE PRESIDENT—The ordinance will be referred to the Committee on Impeachments. The Secretary will please furnish the chair with a Code or copy of Constitution.

MR. KIRK—I offer an ordinance.

The ordinance was read as follows:

AN ORDINANCE

To amend Section 5 of Article V of the Constitution so as to read as follows:

The Governor, Secretary of State, State Treasurer, State Auditor and Attorney-General shall, after the election in 1902, hold their respective offices for a term of four years, from the time of their installation in office and until their successors shall be elected and qualified, and they shall be ineligible to suceed themselves, and shall not be eligible to any office in the State until two years after the expiration of their term of offiec.

Referred to the Committee on Executive Department.

MR. KIRK—I offer another ordinance.

The ordinance was read as follows:

AN ORDINANCE

To amend Sections 5, 6, 18 and 23, and add Section 29 to Article VI of the present Constitution, relating to the judiciary.

Section 6 shall be amended to read as follows:

The Circuit Court shall be held in each county in the State at least twice in every year, and whenever there is a case standing for trial on the docket of any of the counties which the Circuit Judge for such county in incompetent to try, he shall exchange circuits with some other Circuit Judge until such cases are disposed of; provided, the judges of said courts may exchange circuits with each other for other reasons, and in such manner as may be provided by law.

Section 5 shall be amended to read as follows:

The Circuit Court shall have original jurisdiction in all matters, civil and criminal, within the State, not otherwise excepted in this Constitution, but in civil cases only where the matter or sum in controversy exceeds one hundred dollars; provided, that the judges of the several Circuit Courts shall have power to issue writs of injunction returnable into courts of chancery.

Section 18 shall be amended to read as follows:

If, in any case, civil or criminal, pending in any circuit, chancery or city court in this State, the presiding judge or chancellor shall, for any legal cause, be incompetent to try, bear or render judgment in such cause, the parties, or their attorneys of record, if it be a civil case, or the solicitor or other prosecuting officer, and the defendant or defendants, if it be a criminal case, may agree upon some disinterested person practicing in the court and learned in the law, to act as special judge or chancellor to sit as a court to hear,

decide and render judgment in the same manner and to the same effect as the judge of the circuit or city court or chancellor sitting as a court might do in such case.

Section 23 shall be amended to read as follows:

Clerks of the Circuit Courts shall be elected by the qualified electors in each county for a term of six years. Vacancies in such office shall be filled by the Circuit Judge for the unexpired term.

Section 29 shall be added to read as follows:

All causes that may be brought in the Circuit Court, whereof the Chancery Court has exclusive jurisdiction, shall be transferred to the Chancery Court, and all causes that may be brought in the Chancery Court whereof the Circuit Court has exclusive jurisdiction, shall be transferred to the Chancery Court.

Referred to Judiciary Committee.

By Mr. Kirkland:

Be it ordained that all officers hereafter elected by the people of the State of Alabama, both State and County, shall be elected at one and the same time, for a period of four years from the time of their election and until their successors are elected and qualified, provided that no officer so elected shall be ligible to succeed himself as such officer.

Referred to Committee on Executive.

By Mr. Kirkland:

Be it ordained by this Convention: That the Exemption Laws of the State of Alabama, as now expressed in Article 10 of the Constitution of 1875 shall be and remain the same as therein expressed, provided that the area of a homestead in the country shall embrace one hundred and sixty acres and no more.

Referred to Committee on Exemptions.

By Mr. Lomax:

Ordinance No. 18.

MR. LOMAX—I will state to the convention that that is merely a readoption of the present Constitution with reference to the municipal taxation, with the Birmingham amendment added, and it might save time to dispense with the reading of it. Unless some gentleman objects we might dispense with it. There are several provisions of our present Constitution the readoption of which was demanded by the State platform of our party.

A reading was called for and it was read as follows:

An ordinance limiting the power of the General Assembly as to local or special Legislation.

Be it ordained by the people of the State of Alabama in Convention assembled, That the General Assembly shall not pass local or special laws in any of the following enumerated cases, or concerning any of the following subjects, that is to say:

First—Regulating the jurisdiction and duties of Justices of the Peace and of Constables.

Second—For the punishment of crimes and misdemeanors.

Third—Remitting fines, penalties or forfeitures.

Fourth—Providing for changing the venue in civil or criminal actions.

Fifth—Granting divorces.

Sixth—Changing the names of persons or places, or water courses.

Seventh—Authorizing the laying out, opening, altering, maintaining, or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, grave yards, or public grounds not owned by the State.

Eighth—Regulating or authorizing the levy, the assessment or the collection of taxes, or to give any indulgence or discharge to any assessor or collector of taxes or his sureties.

Ninth—Providing for conducting elections, or designating places of voting, or changing the boundaries of wards, precincts or districts, except on the organization of new counties.

Tenth—Affecting estates of deceased persons, minors, cestuis que trust or other persons under legal disabilities.

Eleventh—Extending the time for the collection of taxes.

Twelfth—Giving effect to invalid deeds, wills, or other instruments.

Thirteenth—Refunding money legally paid into the State Treasury.

Fourteenth—Releasing or extinguishing in whole or in part the indebtedness, liabilities or obligations of any corporation or person to this State, or to any municipal corporation therein.

Fifteenth—Declaring any person of age or authorizing any minor to sell, lease, or to incumber his or her property, or do acts allowed only to adults not under disabilities.

Sixteenth—Legalizing, except as against the State, the unauthorized or invalid act of any officer or public agent of this State or of any city, County or municipality thereof.

Seventeenth—Granting to any corporation, association or individual any special or exclusive right, privilege or immunity.

Eighteenth—Exempting property from taxation.

Nineteenth—Locating or changing county seats.

Twentieth—Restoring to citizenship persons convicted of infamous crimes.

Twenty-first—Regulating the rate of interest on money.

Twenty-second—Authorizing the creation, extension, enforcement, release or impairing of aliens.

Twenty-third—To regulate fencing.

Twenty-fourth—Changing the law of descent or distribution.

Twenty-fifth—Authorizing the adoption or legitimation of children.

Twenty-sixth—To regulate limitation of civil or criminal actions.

Twenty-seventh—To provide for the protection of game animals, birds and fish.

Twenty-eighth—To create, increase or decrease the salary of any public officers or to authorize officers to appoint deputies.

Twenty-ninth—To grant a charter to any corporation or to amend the charter of any existing corporation unless the same cannot be secured under the general law; to license companies or persons to work or operate ferries, bridges, roads of turn pikes; to declare streams navigable, and to authorize the construction of booms or dams therein, or to remove obstruction therefrom.

Thirtieth—To regulate the running at large of stock.

Thirty-first—To provide a means of taking the sense of the people of any city, town, precinct, district or county, whether they wish to authorize, regulate or prohibit therein the sale or disposition of vinous, spirituous or malt liquors, or altering the liquor laws.

Thirty-second—In all other cases where a general law can be made applicable, no special or local law shall be enacted.

The General Assembly shall not indirectly enact any special or local act by the repealing part of a general act, or by exempting from the operation of a general act any city, town, village, district, precinct or county; but laws repealing local or special acts may be enacted. No law shall be enacted granting powers or privileges in any case where the granting of such powers or privileges shall have been provided for by a general law nor where the courts have jurisdiction to grant the same or to give the relief asked for. No law, except such as relates to the sale, loan or gift of vinous, spirituous or malt liquors, bridges, turnpikes, or other public roads, public buildings or improvement, fencing, running at large of stock, matters pertaining to common schools, paupers, and the regulation by counties, cities, towns, or other municipalities of their local affairs, shall be enacted to take effect upon the approval of any other authority than the Governor or General Assembly unless otherwise expressly provided in this Constitution.

Referred to Committee on Legislative Departments.

By Mr. Lomax (Montgomery):

An Ordinance to limit the power of political or municipal corporations, to incur debts or issue bonds.

Be it ordained by the people of the State of Alabama, in Convention assembled, that,

No political or municipal corporation in this State shall ever become indebted in any manner or for any purpose (including indebtedness for street improvements to be paid out of the general funds) to an amount in the aggregate exceeding ten (10) per centum on the value of the taxable property within such corporation, to be ascertained by the last assessment for State and County taxes previous to the incurring of such indebtedness; and all bonds or obligations, in excess of such amount, given by such corporation, shall be void: Provided, That in time of war, foreign invasion or other great public calamity, on petition of a majority of the property owners, in number and value, within the limits of such corporation, the public authorities in their discretion may incur obligations necessary for the public protection and defense to such an amount as may be requested in such petition.

Referred to Committee on Municipal Corporations.

By Mr. Lomax:

Ordinance No. 19.

AN ORDINANCE

To re-adopt Section 7 of Article 11 of the present Constitution as amended in reference to taxation by cities, towns and municipal corporations.

Be it ordained by the people of the State of Alabama in Convention assembled that no city, town, or other municipal corporation, other than provided for in this article shall levy or collect a larger rate of taxation in any one year a larger rate of taxation in any one year on the propert thereof, than one half of one per centum of the value of such property as assessed by the State taxation during the preceding year; provided, that for the payment of debts existing on the sixth day of December, 1875, and the interest thereon, an additional rate of one per centum may be collected, to be applied exclusively to such indebtedness; and provided, this section shall not apply to the city of Mobile, which city may levy a tax not to exceed the rate of three-fourths of one per centum to pay expenses of the city government, and may also levy a tax not to exceed the rate of three-fourths of one per cent to pay the indebtedness of said city, existing on the sixth day of December, 1875, and the interest thereon.

And provided, further, that this section shall not apply to the city of Birmingham, which city may levy and collect a tax not to exceed one half of one per centum in addition to the tax of one half of one per centum as hereinabove allowed to be levied and collected, such special tax to be applied exclusively to the payment of interest on the bonds of the city of

Birmingham heretofore issued in pursuance of law, and for a sinking fund to pay off said bonds at the maturity thereof.

Referred to Committee on Municipal Corporations.

By Mr. Lomax:

Ordinance No. 20:

An Ordinance to re-adopt with certain changes therein set out, certain sections of the present Constitution in reference to taxation, said sections being part of Article 11 of the present Constitution.

Be it ordained by the people of the State of Alabama in Convention assembled, That,

Article; Taxation

Section 1. All taxes levied on property in this State shall be assessed in exact proportion to the value of such property; Provided, however, the General Assembly may levy a poll tax, not to exceed —— dollars on each poll, which shall be applied exclusively in aid of the public school fund in the county so paying the same.

Sec. 2. No power to levy taxes shall be delegated to individuals or private corporations.

Sec. 3. After the ratification of this Constitution, no debt shall be created against, or incurred by this State, or its authority, except to repel invasion or to suppress insurrection, and then only by a concurrence of two-thirds of the members of each House of the General Assembly, and the vote shall be taken by the yeas and nays and entered on the Journal; and any act creating or incurring any new debt against this State, except as herein provided for, shall be absolutely void; Provided, the Governor may be authorized to negotiate temporary loans, never to exceed $100,000, to meet deficiencies in the Treasury; and until the same is paid, no new loan shall be negotiated; Provided, further, that this Section shall not be construed as to prevent the issuance of bonds in adjustment of existing State indebtedness, nor to the funding of any bonds or other indebtedness of this State outstanding at the time of the ratification of this Constitution.

Sec. 4. The General Assembly shall not have the power to levy in any one year, a greater rate of taxation than three-fourths of 1 per centum on the value of the taxable property within this State.

Sec. 5. No county in this State shall be authorized to levy a larger rate of taxation in any one year, on the value of the taxable property therein, than one-half of 1 per centum, Provided that to pay debts existing on the 6th day of December, 1875, an additional rate of one-fourth of 1 per centum may be levied and collected, which shall be exclusively appropriated to the payment of such debt or the interest thereon. Provided, further, that to pay any debt or liability now existing against any county, incurred for the erection of the necessary public buildings, or other ordinary county purposes, or that may hereafter be created, for the erection of necessary public buildings, or bridges, any county may levy and collect such special taxes as may have been or may

hereafter be authorized by law, which taxes so levied and collected shall be applied exclusively to the purposes for which the same were so levied and collected.

Sec. 6. The property of private corporations, associations and individuals of this State shall forever be taxed the same rate; Provided, this section shall not apply to institutions or enterprises devoted exclusively to religious, educational or charitable purposes.

Referred to the Committee on Taxation.

By Mr. Lomax:

ORDINANCE 21:

AN ORDINANCE

To readopt the provisions of Article 10 of the Constitution of 1875 relating to exemptions.

Be it ordained by the people of the State of Alabama in Convention assembled that

ARTICLE

Exempted Property.

Section 1. The personal property of any resident of this State to the value of one thousand dollars, to be selected by such resident, shall be exempted from sale on execution, or other process of any court, issued for the collection of any debt contracted since the 13th day of July, 1868, or after the ratification of this Constitution.

Sec. 2. Every homestead not exceeding eighty acres and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any city, town or village, or in lieu thereof at the option of the owner, and lot in the city, town or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of two thousand dollars, shall be exempted from sale on execution or any other process from a court for any debt contracted since the 13th day of July, 1868, or after the ratification of this Constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of such homestead by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife to the same.

Sec. 3. The homestead of the family after the death of the owner thereof, shall be exempt from the payment of any debts contracted since the 18th day of July one thousand, eight hundred and sixty-eight, or after the ratification of this Constitution, in all cases, during the minority of the children.

Sec. 4. The provisions of Sections one and two of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming such exemption, or a mechanic's lien for work done on the premises.

Sec. 5. If the owner of the homestead die, leaving a widow, but no children, such homestead shall be exempt, and the rents and profits thereof shall enure to her benefit.

Sec. 6. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may afterwards be entitled by gift, grant, inheritance, or device, shall be and remain the separate estate and property of such female, and shall not be liable for any debts, obligations and engagements of her husband, and may be devised or bequeathed by her, the same as if she were a femme sole.

Sec. 7. The right of exemptions hereinbefore secured may be waived by an instrument in writing and when such waiver relates to realty, the instrument must be signed by both the husband and the wife, and attested by one witness.

Referred to Committee on Exemptions.

By Mr. Lomax:

Resolution No. 30.

Resolved, That in any article adopted by the Committee on Corporations and reported to this Convention the provisions of the present Constitution as to the powers of corporations shall not be enlarged in any respect or particular.

Referred to Committee on Corporations.

By Mr. Lomax:

AN ORDINANCE

Relating to Suffrage and Elections.

Be it ordained by the people of Alabama in Convention assembled.

That Article ——.

Suffrage and Elections.

Section 1. Every male citizen of the United States and every male person of foreign birth who may have legally declared his intention to become a citizen of the United States before he offers to vote, who is 21 years old, or upwards, possessing the following qualifications, shall be an elector and shall be entitled to vote at any election by the people, except as hereinafter provided:

First—He shall have resided in the State for two years and in the county for one year and in the precinct or ward for three months next preceding the election at which he offers to vote, provided that removal from one precinct or ward to another in the same county shall not deprive any person of the right to vote in the precinct or ward from which he has removed until three months after such removal.

Second—He shall not have been convicted of treason, embezzlement of public funds, embezzlement, false pretenses, malfeasance in office, larceny,

bribery or other crimes punishable by imprisonment in the penitentiary unless his disabilities have been removed according to law and he must not be an idiot or insane person.

Third—He must have paid on or before the 1st day of January of the year in which he shall offer to vote a poll tax of three ($3) dollars per year for the two years next preceding the election at which he offers to vote and must produce to the officers of registration hereinafter provided the receipt of the tax collector showing that he has paid said taxes except that in the general election in August, 1902, he shall be required to show such receipt for only one year, and provided further that such tax shall be used in aid of the common schools and for no other purpose, and such tax shall be a lien only upon taxable property, and no criminal proceedings shall be allowed to enforce its collection.

Fourth—He shall be able to read any section of the Constitution of this State. or he shall be able to understand the same when read to him, or give a reasonable interpretation thereof.

Fifth—He shall have been duly registered under the Constitution and laws of this State; Provided that any male citizen who served in the Confederate or Union armies or navy in the war between the States or in the army of the United States, in the Indian wars, the war with Barbrars States, the War of 1812, the War with Mexico, or the War with Spain or who is a descendant of any such soldier of the above named wars or of the war of the Revolution and who has paid his poll tax hereinabove imposed who is now entitled to vote or shall become of age within seven (7) years after the ratification of this Constitution, and who has not been convicted of the crimes hereinabove specified and who is not insane or idiotic shall have the right to register and vote in any election in this State.

Sec. 2. There is hereby created in every voting precinct in this State a Board of Registrars of Election which shall consist of three qualified electors who are bona fide residents of such precincts and who shall be charged with the duty of registering all voters in accordance with this Constitution and the law made in persuance thereof who shall hold their office for the term of four years and until their successors are elected and qualified and who shall be ineligible as their own successors and who shall while a member of such board be eligible to any office. For the first election held after the ratification of this Constitution said Board of Registrars shall be appointed by the Governor and at said election the members of said Boards shall be elected by the qualified voters of each election precinct for the terms and under the conditions hereinabove set out provided that no registrar appointed by the Governor shall be eligible for election to such Board at such election. Registrars shall take the official oath prescribed by this Constitution.

Sec. 3. No person shall be registered who is not a qualified elector under the preceding sections of this article of the Constitution and until he shall have taken an oath or affirmation showing his qualifications as a voter in the precinct and county in which he applies for registration and to answer all questions touching his right to vote and his antecedents so far as

they relate to his right to vote and as to his residence prior to his citizenship in said precinct and to support the Constitution of the United States and of this State. And the General Assembly shall pass laws making the wilful and corrupt taking of such oath perjury.

Sec. 4. After the lapse of seven years from the first registration under this Article of the Constitution a new registration shall be made and the General Assembly shall provide for the making of a permanent record of such registration, and all persons so registered shall forever thereafter have the right to vote in all elections by the people in this State unless disqualified under the second sub-division of Section 1 of this Article: Provided such person shall have paid his poll tax as above required, and provided that the General Assembly shall by law provide for the registration of persons becoming entitled to vote from year to year before and after such permanent record of registration.

Sec. 5. Electors in municipal elections shall possess all the qualifications herein prescribed and such additional qualifications as may be provided by law.

Sec. 6. Suitable remedies by appeal or otherwise shall be provided by law to correct illegal or improper registration and to secure the registration of those who may be illegally or improperly denied the same by said Boards of Registrars of Election.

Sec. 7. All qualified electors and no others shall be eligible to office except as otherwise provided in this Constitution.

Sec. 8. Electors shall not be registered within six months next before any election at which they may offer to vote: But appeals may be heard and determined, and revision take place at any time prior to the election; and no person who, in respect to age and residence, would become entitled to vote within said four months, shall be excluded from registration on account of his want of qualification in these respects at the time of registration.

Sec. 9. All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce.

Sec. 10. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, or while going to, or returning therefrom.

Sec. 11. The General Assembly shall pass laws in accordance with this Constitution to regulate and govern registration and elections in this State, and such laws shall be uniform throughout this State.

Sec. 12. It shall be the duty of the General Assembly to pass adequate laws giving protection against the evils arising from the use of intoxicating liquors at all elections.

Sec. 13. The General Assembly shall enact laws to secure fairness in party primary elections, conventions or other methods of naming party candidates.

Sec. 14. Returns of elections for all civil officers who are to be commissioned by the Governor, except Secretary of State, State Auditor, State Treasurer and Attorney General and for members of the General Assembly shall be made to the Secretary of State.

By Mr. Lomax:

MR. LOMAX—I ask leave to amend the fifth sub-division of the article describing the qualifications of voters, the word "Navy" and the word "Army."

PRESIDENT—Unless objection, leave will be granted. Leave granted.

MR. LOMAX—I desire to say it is patent and apparent, there is nothing original in that, but that it is an attempted combination of several well discussed plans to meet our situation here.

Referred to Committee on Suffrage and Elections.

By Mr. Macdonald.

Be it ordained by the people of Alabama in Convention Assembled, That Section 22 of Article IV, of the Constitution be amended so as to read as follows:

Section 22. No amendment to bills and no substitute therefor, shall be adopted except by a majority of the House wherein the same is offered taken by yeas and nays, and such amendment or substitute shall be recorded in full on the Journal of the House wherein the same is adopted, together with the names of those voting for or against such amendment or substitute. And no amendment to bills by one House shall be concurred in by the other except by a majority vote thereof, taken by yeas and nays, and such amendment so concurred in, together with the names of those voting for and against shall be recorded in full in the Journal of said House, and report of Conference Committees shall, in like manner, be recorded on the journals of each House.

Referred to Committee on Legislative Department.

By Mr. Macdonald:

Be it ordained, by the people of Alabama in Convention assembled, That Section 19 of Article IV, of the Constitution be amended so as to read as follows:

Section 19. No law shall be passed except by bill, and every bill shall be copied verbatim on the Journal of the House in which it is introduced before it is referred to any committee; and no bill shall be so altered or amended on its passage through either House as to change its original purpose.

Referred to Committee on Legislative Department.

By Mr. Macdonald:

Be it ordained by the people of Alabama in Convention assembled, that Article eight of the Constitution shall be amended so as to read as follows:

Suffrage and Elections.

Section 1. Every male citizen of the United States, who is over the age of 21 years, possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election by the people, except as hereinafter provided.

First—He shall have resided in the State at least one year immediately preceding the election at which he offers to vote.

Second—He shall have resided in the county for three months and in the precinct or ward for thirty days preceding the election at which he offers to vote; Provided, that the General Assembly may prescribe a longer or shorter residence in any precinct or in any ward in any incorporated city or town having a population of more than 5,000 inhabitants, but in no case to exceed three months and provided, that no soldier, sailor or marine, in the military or naval service of the United States shall acquire residence by being stationed in this State.

Third—He must be able to read and write in the English language understandingly and intelligently.

Fourth—He must have paid all poll taxes assessed against him after the adoption of this Constitution, which poll tax must be paid at least six months before the election at which he offers to vote.

Fifth—He must be the owner, in his own right, of real estate of the value of at least $500, and upon which he has been assessed to that amount; Provided, however, that the foregoing qualifications, numbered third and fifth, shall not apply to any resident of this State who was in the military or naval service of the United States of 1812, the war between the United States and Mexico, or who was in the military or naval service on either side of the late war between the States, otherwise known as the Civil War, or to the lineal descendants of such persons, or to persons related to the fourth degree of consanguinity to such persons, or to any person who is now a naturalized citizen of this State, or to the lineal descendants of a naturalized citizen who was entitled to vote. And provided further, that the exemptions to the following qualifications numbered third and fifth shall expire after twenty-one years from the adoption of this constitution.

Sec. 2. All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce.

Sec. 3. The following classes shall not be permitted to register, vote, or hold office:

First—Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in ofifce, larceny, bribery, or other crime punishable by imprisonment in the penitentiary.

Second—Those who are idiots or insane.

Sec. 4. Electors shall in all cases, except treason, felony, or breach of the peace be privileged from arrest during their attendance at elections, or while going to or returning therefrom.

Sec. 5. The General Assembly shall pass laws not inconsistant with this constitution, to regulate and govern elections in this State and all such laws shall be uniform throughout the State. The General Assembly may, when necessary, provide by law for the registration of electors throughout the State, or any incorporated city or town thereof, and when it is so provided, no person shall vote at any election unless he shall have registered as required by law.

Sec. 6. It shall be the duty of the General Assembly to pass adequate laws, giving protection against the evils arising from the use of intoxicating liquors at all elections.

Sec. 7. Returns of elections for all civil officers who are to be commissioned by the Governor, except the Secretary of State, State Auditor, State Treasurer and Attorney General, and for members of the General Assembly, shall be made to the Secretary of State.

Referred to Committee on Suffrage and Elections.

By Malone:

Be it ordained by the people of Alabama in convention assembled:

That Section 2 of Article 2 of the present Constitution be amended so as to read as follows: "The boundaries of the several counties of this State, as heretofore established by law, are hereby ratified and confirmed. The General Assembly may, by a vote of two-thirds of both houses thereof, arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered except by a like vote; but no new county shall be hereafter formed of less extent than four hundred and fifty square miles, and no existing county shall be reduced to less extent than four hundred and fifty square miles; and no new county shall be formed which does not contain a sufficient number of inhabitants to entitle it to one representative, under the ratio of representation existing at the time of its formation, and leave the county or counties from which it is taken with the required number of inhabitants entitling such county or counties to separate representation.

Referred to Committee on State and County Boundaries.

By Mr. Malone:

Be it resolved:

First—That the new Constitution shall contain a provision permitting each separate township to assess and collect a special

school tax of not exceeding 25 cents on the hundred dollars of assessed valuation of such township.

Second—That such sum as shall be so raised shall be used in connection with the amount due such township from the general fund of the State and shall not be used for other purposes than the actual expenses of the schools of such township for the scholastic year for which same shall have been raised.

Third—That the amount so raised from the property of persons of African descent shall be used for separate schools for children of African descent and only such sum.

Fourth—That such election shall be under the State laws and at an election for such purposes only.

Referred to Committee on Education.

By Mr. Malone:

Be it resolved. That the new Constitution shall contain a provision for the examination by a competent public official of the financial condition of all State and private banks doing business in this State and for the publication of same. Banks and Banking.

By Mr. Miller (Marengo):

Be it ordained, That:

(1) The boundaries of this State are established and declared to be as follows: that is to say:

Beginning at the point where the thiry-first degree of north latitude crosses the Perdido River, thence east to the western boundary line of the State of Georgia; thence along said line to the southern boundary line of the State of Tennessee; crossing the Tennessee River, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear Creek; thence by a direct line to the northwest corner of Washington County, in this State, as originally formed; thence southerly along the line of the State of Mississippi to the Gulf of Mexico; thence eastwardly including all islands within six leagues of the shore to the Perdido River; thence up said river to the beginning.

(2) The boundaries of the several counties of this State, as heretofore established by law, are hereby ratified and confirmed. The General Assembly may, by a vote of two-thirds of both houses thereof, arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered, except by a like vote; but no new county shall be hereafter formed of less extent than six hundred square miles, and no existing county shall be reduced to less extent than six hundred square miles; and no new county shall be formed which does not contain a sufficient number of inhabitants to entitle it to one representative, under the ratio

of representation existing at the time of its formation, and leave the county or counties from which it is taken with the required number of inhabitants entitling such county to separate representation.

Referred to Committee on State and County Boundaries.

By Mr. Miller (Wilcox):

Be it resolved by this Convention, That the formation of school districts be encouraged in furtherance of our public school system, and that trustees for the management of such schools be elected by the qualified electors of such district, and that the authority to raise funds for the support of such schools and for the building of school houses be delegated to such trustees at the option of the qualified voters of the district; and that such a system of district schools be established under well-guarded limitations as to taxation as will meet the inhibitions of the present constitution which are set out in case of Schultes vs. Eberly in 82 Ala., page 242.

Referred to Committee on Education.

By Mr. Mulkey (Geneva):

Ordinance 28, by Mr. Mulkey.

To amend Section 26, Article V of Constitution.

Relates to election of Sheriff and removal from office.

Be it ordained by the people of Alabama in convention assembled, That Section 26, Article V of the Constitution be amended so as to read as follows:

A sheriff shall be elected in each county by the qualified electors thereof, who shall hold office for the term of four years, unless sooner removed, and shall be inelligible to such office as his own successor; provided, that any sheriff who suffers or permits any prisoner in his charge or custody to be taken therefrom at the hand of a mob, shall, upon satisfactory evidence thereof, being furnished the Governor, be at once removed from office.

Vacancies in the office of sheriff shall be filled by the Governor, as in other cases; and the person appointed shall continue in the office until the next general election in its county for sheriff, as provided by law.

Referred to Committee on Executive Department.

By Mr. Murphree (Pike):

Be it ordained by the people of Alabama in Convention assembled, that, Section 2, Article 17, be and is hereby amended so as to read as follows:

No Constitutional Convention shall hereafter be held or delegates elected thereto, for the purpose of altering or amending the Constitution of this State, until after the question of Convention or no Convention, shall be first submitted to a vote of all the electors of the State and approved by a majority of those voting at said election.

Sec. 3. The General Assembly hereafter calling a Constitutional Convention, shall set forth in the act the purpose of the call, by naming the changes, amendments and additions to the then existing Constitution desired to be made which shall be published in the newspapers of the principal cities of the State within twenty days after the passage of the act.

Sec. 4. Constitutional Conventions hereafter had shall be composed of one hundred delegates and no more, the counties having the same representation that they have in the House of the General Assembly.

Referred to Committee on Amending Constitution and Miscellaneous, etc.

By Mr. Murphree:

Be it ordained by the people of Alabama in Convention assembled, that,

Section 5, Article 13, be and is hereby amended so as to read as follows:

The income arising from the 16th Section Trust Fund, the surplus revenue fund, until it is called by the United States government, and the funds enumerated in Sections 3 and 4 of this Article, with such other moneys, to be not less that one hundred thousand dollars per annum, as the General Assembly shall provide by taxation or otherwise, should be applied to the support and maintenance of the public schools and it shall be the duty of the General Assembly to increase from time to time, the public school fund, as the condition of the treasury and the resources of the State will admit, the school fund, from whatever source derived, shall be divided between the children of the white and negro races in proportion to the amount of State tax paid by each race.

Referred to Committee on Education.

By Mr. Murphree:

Be it ordained by the people of Alabama in convention assembled, that:

Section 5, Article 4, be amended so as to read as follows:

The General Assembly shall meet biannually, at the capital in the Senate Chamber and in the Hall of the House of Represen-

tatives, except in cases of destruction of the capitol or epidemics when the Governor may convene them at such place in the State as he may deem best, on the day specified in this constitution, or on such other day as may be prescribed by law, and shall not remain in session longer than sixty days at the first session held under this constitution, nor longer than fifty days at any subsequent session.

(The first thirty days of which shall be set apart for the enactment of general laws and the remainder of the session for local legislation.)

Referred to Committee on Legislative Department.

By Mr. Murphree:

Be it ordained by the people of Alabama in convention assembled, That Section 2, Article 10, be and is hereby amended so as to read as follows:

One hundred and sixty acres of land and no more, and the dwelling and appurtenances thereon, it being selected by the owner for a homestead, and not in any city, town, or village or in lieu thereof, at the option of the owner, any lot in a city, town or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of two thousand dollars, shall be exempt from sale on execution, or other process of any court, issued for the collection of any debt contracted after the ratification of the Constitution of 1875. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of such homestead by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife to the same. And the foregoing exemptions shall remain and shall not be increased or diminished by the General Assembly or by the decision of any court of this State.

Referred to Committee on Exemptions.

By Mr. Oates (Montgomery):

MR. OATES — I have no ordinance or proposition of my own to offer, but our distinguished senior Senator has manifested such interest in this Convention and its proceedings, that he has sent, and I presume most of the delegates have seen it, a printed proposition for the Article on Suffrage in the new Constitution, and I also hold in my hand a brief in his handwriting, sent to me with citation of authorities to sustain the legality of the positions he assumes, I do not care for it to be read, but I desire that it be printed in the proceedings and referred to the Committee on Franchises and Elections, both documents.

THE PRESIDENT—Unless there be objection the ordinance will be referred to the Committee on Suffrage and Elections.

MR. OATES — To be printed in the proceedings as though read. I desire that delegates may see it.

THE PRESIDENT—The Chair will direct that it be printed with the general proceedings of the Convention.

Ordinance by Mr. Oates, proposed by Senator Morgan.

QUALIFICATION OF VOTERS

Article ——

Section 1. To entitle any person to vote at any election for any public officer of the State, or of any county, district, precinct or municipality created by law, he shall be a male citizen of the United States and shall have attained the age of 21 years; and

He shall have been registered as a voter, under the provisions of this Constitution, in the precinct in which he votes; and shall have resided in such precinct at least one year, and in the county at least two years, and in the State at least three years next before the date of filing his application to become a registered voter, and next before the date of the election at which he offers to vote; and

His application to be registered as a voter shall have been presented by him and acted upon and his qualification and fitness to be a voter shall have been ascertained and determined by a lawful tribunal having jurisdiction of the registration of voters.

Sec. 2. Persons who are not citizens of the United States, or who are not descended from a father and mother belonging to the white race, shall not be eligible to any office under the Constitution and laws of Alabama.

Sec. 3. The following persons shall not be permitted to vote, or to register as voters, while their disabilities continue, namely: Those who are idiots or insane: or those who shall have been convicted of giving or receiving a bribe to influence voters or any election officer, with reference to any election; or those who have been convicted of any offense punishable by imprisonment in the penitentiary, unless their disabilities have been removed according to law.

Sec. 4. The tribunal charged with the duty of making an official registration of voters shall have jurisdiction to receive, examine and determine the validity and regularity of applications, and to ascertain and decide upon the qualifications and fitness, as voters, of all applicants for registration, and to admit them to registration, or reject them.

It shall have power to examine applicants for registration, on oath, touching their qualification to become voters, and to reject such as decline such examination.

It shall have power to summon witnesses, and to examine them on oath, and to compel their attendance.

It shall have power to preserve order at its sittings and the powers to punish persons for contempt, that are conferred by law upon the Circuit Courts.

The members of such tribunal shall be liable to removal from office by order of the Governor for any official misconduct, or for inefficiency in the performance of their official duties; and shall be personally liable to punishment by indictment, for corruption in office; but the integrity and honesty of their decisions shall not be called in question in any civil action brought against them, growing out of any decision they have made upon any application for registration; and, in the consideration and determination of any question as to the qualification and fitness of any applicant for registration such tribunals shall have exclusive jurisdiction, except that appeals may be taken to the Circuit Courts from their decisions, where the same may be confirmed, or reversed, or annulled; and final judgment shall be rendered on the qualification of the applicant to be registered as a voter.

Sec. 5. The qualification and membership of the Boards of Registrars for the voting precincts, the method of constituting the same, and their regulation, and other organic provisions concerning such boards are set forth in the following schedule to this article, which may be, at any time, and in any part thereof, altered, amended or repealed by the vote, taken by ayes and nays, of two-thirds of a quorum of each house of the General Assembly:

SCHEDULE TO ARTICLE ——

Section 1. A board of registrars is hereby created for each election precinct of each county as it is or shall be established by law, to consist of three worthy and capable persons having the qualifications of voters, who shall be appointed by the court of County Commissioners of each county, at a session of said court to be held on the first Tuesday in February, 1902. If any of said courts shall fail, for any cause, to appoint a board of registrars for any precinct, on that day, a vacancy shall exist in such board, as a whole, or in part; or, if any person so appointed shall fail to qualify as such registrar within fifteen days after such appointment his office shall be vacant, and in any such cases the vacancy shall be filled by appointment of the Governor. If any such vacancy is not filed by the appointment and qualification of the appointee on or before the 4th day of March, 1902, the Judge of Probate of the county shall fill the same by appointment.

Sec. 2. Laws shall be enacted for the punishment of persons who, without just excuse, refuse, after election or appointment to the office of registrar, to qualify and perform the duties of such office.

Sec. 3. The Boards of Registrars appointed under Section 1 of this schedule shall be appointed for the term of four years, from March 4th, 1902, to March 4th, 1906. The succeeding boards shall each be elected for terms of four years, to begin and end on the 4th days of the month of March.

No person who has qualified as a member of the Board of Registrars shall be eligible to election or appointment to any other office during the term for which he was chosen or for two years after such term expires.

No resignation of any member of the Board of Registrars shall be effectual until the same is accepted by the Governor.

All vacancies in the membership of Boards of Registrars, whether the members are elected or appointed, shall be filled by appointment of the Governor, within thirty days after the office has become vacant, and, if no one is appointed and qualified to fill such vacancy within that time, the vacancy shall be filled by appointment, to be made by the Judge of Probate of the county in which the vacancy occurs.

Sec. 4. On the first Monday in January, 1905, an election shall be held in each precinct in each county of the State, for members of a Board of Registrars, and every four years thereafter such election shall be held on the same day of the month of January. Such elections shall be conducted in the manner prescribed by law for the election of judges of probate, and the returns of election shall be made, certified and recorded or kept in the same manner. Only registered voters of the precincts in which they reside shall vote at such elections and the persons elected shall be registered voters in such precincts.

No person shall be elected to the office of registrar of voters who does not receive a majority of all the votes cast at such election, and each ballot shall contain the names of three persons voted for; or the same shall be rejected.

If, for any cause, the election of a board of registrars, or any member thereof, shall fail, at the time herein designated, a vacancy shall exist in the office which shall be filled in the manner provided in section 3 of this schedule. In case of a tie vote in such election, it shall be decided by the casting vote of the judge of probate, in each case, but no election of registrars of voters shall be contested, except in the manner and for the causes specially provided by statute.

Sec. 5. Before entering upon the performance of the duties of his office, each registrar of voters shall take and subscribe the following oath of office:

"I (giving the name) do solemnly swear (or affirm), in the presence of Almighty God, that I will support the Constitution of the United States and of the State of Alabama; that I will honestly and truly, according to the best of my ability, discharge the duties of the office of registrar of voters on which I am about to enter, without fear, favor, reward, or the hope thereof."

Which oath shall be administered by any person lawfully authorized to administer oaths, and dated and signed by the affiant, and filed in the office of the probate judge of the county.

Sec. 6. Commissions shall be issued by the judge of probate to registrars of voters elected or appointed to such offices, except in cases of appointment by the Governor, who shall issue commissions to his appointees; and the person having the oldest commission shall be chairman of the board of which he is a member.

Sec. 7. The chairman of the board of registrars of voters for each precinct shall be the custodian of all record books and papers thereof. He shall keep a book of registration, in which shall be recorded the names of all persons who apply to be registered as voters, and of all persons who are registered as voters by the vote of the board, or a majority thereof, with a statement of the age and place of nativity of such registered voter. Each list shall be kept separately, in the same book, arranged in alphabetical order, and each name shall be numbered in the margin thereof, which shall correspond with the number endorsed on the application, which shall also be endorsed as "approved" or "rejected," as the case may be, and dated and signed by the chairman of the board of registrars.

Sec. 8. The General Assembly shall provide by law for such other duties as shall be performed by the boards of registrars in connection with their office, and may alter, amend or repeal any part of the duties herein designated, in the manner prescribed in article .... of this constitution; and shall provide just compensation to the members of the board of registrars of voters for their official services.

Sec. 9. Application for registration as a voter shall be signed by the applicant and presented by him, in person, to the board of registrars at their regular meetings held as required by law. If the applicant cannot write his name, it shall be identified by his mark, and attested by a witness. The application shall state the place of nativity and the age of the applicant; his citizenship, whether by birth or process of naturalization; his residence and the years in or during which he has had his residence in the State and the county and precinct in which he claims the right to register as a voter, and his occupation, or that he is physically disqualified from pursuing a business, occupation or calling.

If he is a citizen by naturalization, he shall state when, where and in what courts he was naturalized, and, if it is required by the Board of Registrars, he shall produce record evidence of his admission to citizenship of the United States.

If the application is rejected, it shall be the basis of any further proceeding in any court in which such decision is reviewed or is sought to be reversed, that may be provided by law; and the applicant shall be required by such court to prove the statements in his application and such other facts as shall entitle him to be registered as a voter, and that he is a man of a good moral character and is informed as to the principles of the United States and is attached to the same.

No appeal from the decision of the Board of Registrars, rejecting an application for registration, nor any proceeding in the nature of a review or new trial thereof, shall be triable in any court or by any tribunal, unless such appeal is taken, or such proceeding is instituted within thirty days after such decision is made and entered of record by the Board of Registrars; and no applicant for registration whose application has been rejected, shall be entitled to vote until he is registered as a voter by order of the Circuit Court of the county in which his application was rejected.

On the death of any registered voter, or his removal from the voting precinct in which he is registered, his resignation shall be cancelled on the list of registered voters, of such precinct. A registration may be canceled by the Board of Registrars for the fraud or perjury of the applicant in obtaining the same.

No vote shall be rejected by the managers of any election for any cause of disqualification that existed at the time of the registration of the voter, but his identity shall be proven if his vote is challenged on the ground that the voter is not the same person whose name is on the list of registered voters. The Legislature may provide laws for the exclusion of a registered voter from the privilege of voting for any cause that may occur after the date of his registration.

Senator Morgan's brief was ordered printed and is as follows:

The right of a State to prescribe the qualifications for office is absolute and exclusive and does not depend upon its right to prescribe the qualification of voters.

Women are not voters in Alabama, yet they hold office under the State and Federal governments.

Men of lawful age are entitled as a class of population, to become voters, or to hold offices, while women, who are excluded, as a class, from voting, are entitled to hold office.

These are simply class distinctions, like those of race and color.

Such class distinctions based upon race or color, are forbidden by the 14th and 15th amendments as to the right to vote, but are not forbidden as to the right to hold office.

If the Constitution of Alabama should prescribe that no negro woman should hold office under the State, it would be vain if one should attempt to sustain her right on the ground that her "right to vote" is protected by the 14th and 15th Amendments, because she is a negro woman, includes the right to hold office, as an "immunity" or "privilege," or as a right of "equal protection under the laws"; because she has not and never could have the right to vote under the laws of Alabama, or of the United States. There is, therefore, no predicate for such a contention. Besides, "the right to vote" is expressly confined to the male inhabitants of such State, being 21 years of age," both by the 14th and 15th Amendments, and it is that right, confined to those persons, that is protected against denial or abridgement, in the 15th Amendment, or against abridgement in the 14th Amendment, and only that right.

The right to vote is separated from all other rights, in both amendments and is protected against abridgement or denial on account of race, color, or previous condition of servitude, and this is as far as their protection extends.

There is no race protection as to any "privileges or immunities of citizens of the United States," except with reference to the right to vote and then is limited to negro men.

So, in considering the right of a person to hold office in a State, the question of the race, or color, or previous condition of servitude of such person is not one that the State is prohibited from including in the qualifications for office.

Second—The capacity or qualification of a person to hold office under a State, does not depend alone upon "citizenship of the United States." That may or may not be an essential qualification for office, but even that is not indispensable; for Congress, which is expressly bound by the 15th Amendment, constantly makes appropriations to pay salaries for official services to persons who are not citizens of the United States. It is very clear that mere "citizenship of the United States" does not entitle any one to claim or demand office in a State. The absence of citizenship may debar a person from the right to hold office, but its existence does not give that right, and the question is one that only the State can decide. Congress has no power to decide.

Third—"The privileges and immunities" of citizens of the United States (except as to voting, perhaps) are personal rights of life, liberty, religion and the equal protection of the law, and the like, and are not political privileges to be conferred by the Government of the State, such as holding offices of honor, or profit, or commissions, or public agencies: nor are they political immunities against being refused such offices, honors, or agencies.

Duncan vs. Missouri, 152 U. S., 377; McKane vs. Dunston, 153 U. S., 634; Miner vs. Hoppersitt, 21 Wall, 162; Bradwell vs. The State, 16 Wall., 130; in re Belva Lockwood, 154 U. S., 116; Giozza vs. Tiernan, 148 U. S., 657, and cases there cited.

These cases show that the 14th and 15th Amendments confer no "privileges or immunities," that did not belong to citizens of the United States, where they were ordained, and that those privileges and immunities are only such as belong to "citizens of the United States," wherever they reside, under the laws of the United States, and not under the municipal laws of the several States. The rule for construing the language of the Constitution is clearly stated in Lake Company vs. Rollins, 130 U. S. 657.

The right of a State to prescribe the qualifications of officers of the State government, is not; in the least, controlled or limited by questions of "the right to vote," or by "the privileges or immunities of citizens of other States," or "of the United States," or by class questions, or race questions.

The right to prescribe the qualifications for office in the States, are not among "the powers delegates to the United States by the Constitution," nor among those "prohibited by it to the States;" but they are among those that "are reserved to the State respectively."

Clement vs. Kelsey, 121 U. S. 242.

McElvaine vs. Brush, 142 U. S. 155.

Miller vs. Texas, 153 U. S. 535.

Thorington vs. Montgomery, 147 U. S. 490.

Re Sawyer 124 U. S. 200.

O'Neil vs. Vermont, 143 U. S. 323.

The above cited cases show that only a few of the rights mentioned in the bill of rights, as belonging to the people, are made obligatory on the States by the Constitution.

Offices are not contracts, under the constitution. Office is "a privilege revocable by the sovereignty at will."

Crenshaw vs. U. S. 134 U. S., 99.

Hall vs. Wisconsin, 103 U. S. 5.

Mayor of N. Y. vs. Milne, 11 Peters 102.

Burlier vs. Conoly 113 U. S. 27.

The Constitution of the United States while it imposes qualifications of age and residence on Representatives and Senators in Congress, leaves it to the States to fix the qualifications of voters for both classes of these officers, and is silent as to the qualifications of electors for President and Vice-President, and as to the qualification or designation, of those who may choose electors. These are very distinct and important admissions of the sovereign right of the States to provide by law for the regulation of the right to vote for such officers, whose official powers can be exercised nowhere else than in Congress or in the election of President and Vice-President of the United States. These provisions are based on the fundamental principle, that the sovereign power of the United States resides in the people of the State; and that it is only through the State laws that such powers can be exerted.

It required the amendment of the Constitution of the United States to give Congress the right to impose the restriction on the States, in respect of negro suffrage.

The States had that unquestionable power until these changes were made in the Federal Constitution, through their ratification. These changes related only to the security of negro men, citizens of the United States, 21 years of age, in respect of their "right to vote," and not in relation to any other political right, such as the right to hold office. So that the rights of the States remained untouched and unaffected as to all other powers that they possessed. These amendments placed the power of the States to prohibit such negro men from voting among the enumerated powers, that are forbidden to the States; but did not place the power to fix the qualification of office holders in that class. All the provisions of the Constitution of the United States were made supreme, as parts of the Constitutions of the several States, by their ratification, and nothing in that instrument relates

to the qualifications of persons to hold office under the State Governments. They are among the powers expressly reserved to the States in the ninth and tenth amendments.

Even in choosing electors, which officers were created by the Constitution of the United States, the legislatures are given the widest discretion in the manner of their election, which includes the qualification of voters; and the only restriction on the power of choosing, is that which relates to voters, in the 14th and 15th amendments. There are no restrictions or provisions relating to the qualifications of electors except that no Senator or Representative in Congress shall be an elector; which is a most significant proof that the qualifications of all State officers should be fixed with reference to services to be performed by the officers for the States, respectively, and not for the United States, and can only be prescribed by the States.

In the case of McPherson vs. Blackler, 146 U. S., page 35, the Supreme Court of the United States, hold that a Presidential elector is a State officer, and can only be appointed by State authorities. They say, amongst other able statements of the law, that "In short, the appointment and mode of appointment belong exclusively to the States under the Constitution of the United States."

In the fourteenth amendment, which is examined by the court in this case, there is a penalty fixed on the States for the denial, or abridgement, of the right of a "voter" at any election for the choice of electors for President and Vice-President of the United States, and in the fifteenth amendment, this penalty is changed to an absolute prohibition with reference to voters of the negro race.

To hold that these restrictions on the power of the States as to negro voters, confer upon the negroes the power, or the right, to hold office in the States, and is a guaranty of that right, is equally to provide for and guarantee the right of the negro voter to hold any office under the United States; for, the fifteenth amendment binds the United States, as much as it binds the States.

Logically, the result of this method of interpretation is that the fifteenth amendment grants and secures to a negro voter the constitutional right to occupy the office of President or Vice-President, if the electors should choose him for either place.

A rational conclusion is that the fourteenth and fifteenth amendments have no reference to qualifications for office, but only to the qualifications of male negro citizens of the United States twenty-one years old, as voters. It does not include or relate to a race of people, but to the individuals of a race who have certain qualifications of age, sex and citizenship. If Alabama should admit all white women of the age of twenty-one years to vote, and exclude all negro women from voting, that would be legitimate, under the fourteenth and fifteenth amendments, because they apply only to negro men; unless, indeed, the fifteenth amendment repeals the fourteenth; in which case, there can be no reduction of representation in Congress, under

the fourteenth amendment, and no definition in the Constitution of who is a negro voter; and the States would be left to supply the definition; in which case they could fix the definition so as to include men or women or children, or to exclude them, for otherwise "the right of a citizen of the United States to vote" could have no other possible definition.

There is no logical, legal, historical, or constitutional connection between the right to vote and the right to hold office; or the capacity of the voter, and the capacity to hold office; and there is only an artificial relation, created by law, between the qualifications for office holding and for voting. It is the mistaken identification of these functions that has led to any doubt or obscurity on this subject.

The voter has but a single power, that of voting for public officers, and his vote is the first, and really the only expression, directly given of the sovereign power of the people, after a constitution has been ordained and established. The office-holder has only the powers that are conferred on him by law as an individual, not as a member of a race. There is no more relationship between the capacity to vote and the capacity to hold office, or the right to vote and the right to hold office, than is between the Governor and the judge he appoints to office, while one is rendering judgment on the bench and the other is approving or vetoing bills passed by the Legislature; or, to make the illustration more complete, than there is between the voter who votes for a judge and the same judge who afterwards tries him for a crime. It is the right of a voter, where he lawfully votes, to represent his personal views of the qualification of the person for whom he votes, without constraint from any other person; but it is still the right of the people, after they have elected a person to office to ascertain and determine whether he is lawfully qualified to enter upon the office and discharge its duty.

The two alleged rights are wholly separable; so that, to deny a person the right to vote, is not to deny such person the right to hold office. Otherwise, a woman who cannot vote, could not hold office. Yet, we see the constant and increasing election and appointment of women to offices of responsibility and importance, both to the State and Federal Governments.

The question of the application of the 14th and 15th amendments to the right or capacity for holding office under the State Government, has been discussed at such length, not because there is the least doubt about it, but because it seems to furnish the safe plan, if not the only security to the white race, for excluding the vicious and harmful negro vote from the ballot box.

It enables us to have registrars of voters who are white men, and this is almost, an absolute guaranty that elections will be honest and enlightened, according to the standard of the white race. Whether the Registrars are a State Board or a County Board, or a precinct Board, and their numbers shall be few or many, and what shall be their qualifications, tenure of office, or personal qualifications, are questions of policy, to be carefully considered.

The key to success, and the shelter against Congressional or judicial interference, is the declaration that only white people are qualified for office.

There are some questions hidden away in the 14th and 15th amendments not generally discussed, about which jurists are much in doubt. They are whether the 15th amendment repeals any, and what part of the 14th amendment.

Whether the two amendments are repugnant, and if so, whether either can be carried into execution.

Whether the two amendments are to be construed in pari materia as if they were written as one amendment.

Whether the 14th amendment repeals the provision of the Constitution proper as to the necessity for the apportionment of the income tax.

As to the right to vote and hold office, these features of the amendments are not necessarily involved in this discussion. JOHN T. MORGAN.

Suffrage and Elections.

By Mr. O'Neal (Lauderdale):

AN ORDINANCE

To amend Article XII, Section 1 of the Constitution so that the same shall read as follows:

(1) All able-bodied white male inhabitants of this State, between the ages of eighteen years and forty-five years, who are citizens of the United States, or have declared their intentions to become such citizens, shall be liable to military duty in the militia of the State.

Referred to Committee on Militia.

By Mr. O'Neal:

An ordinance to provide who shall be eligible to hold office under the Constitution of Alabama.

Article VIII. Suffrage and Election.

(1). Persons who are not citizens of the United States, or who are not descended from a father and mother belonging to the white race, shall not be eligible to any office under the Constitution and laws of Alabama.

Referred to Committee on Suffrage and Elections.

By Mr. Phillips (Clay):

An Ordinance to define City Boundaries.

Be it ordained, by the people of Alabama in Convention assembled, That the boundaries of the several counties of this State as heretofore established by law, are hereby ratified and confirmed.

The General Assembly may by a vote of two-thirds of both Houses thereof, arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered, except by a like vote; but no new county shall thereafter be formed of less extent than 600 square miles, and no existing county shall be reduced to less extent than 600 square miles; and no new county shall be formed which does not contain a sufficient number of inhabitants to entitle it to one representative under the ratio of representation existing at the time of its formation and leave the county or counties from which it is taken with the required number of inhabitants entitling such county or counties to separate representation.

Referred to Committee on State and County Boundaries.

By Mr. Pillans (Mobile):

On ordinance to amend Article II., Sec. 2 of the Constitution of Alabama. (Concerning County Seats.)

Be it ordained by the people of Alabama in Convention assembled, That no county seat shall be removed, unless such removal shall be authorized by the affirmative vote of the majority of the electors of such county, voting upon any such proposed removal, at an election to be provided for by law.

Referred to Committee on State and County Boundaries.

By Mr. Pillans:

To amend the Declaration of Rights Article of the Constitution.—Protection of Convicts.

Be it ordained by the people of Alabama in Convention assembled, That it shall not be lawful to use the lash upon, or to whip or flog, any person held under conviction for crime or misdemeanor in this State.

Referred to Committee on Preamble and Declaration of Rights.

By Mr. Reese (Dallas):

Resolved, That for the purpose of easy reference, the Rules Committee or such other committees as shall have supervision of the printing of the record of the proceedings, shall cause the pages constituting such record to be numbered consecutively in the same manner now practiced in The Congressional Record of the Congress.

Referred to Committee on Rules.

By Mr. Reese:

Resolved, That the present constitutional basis of representation of the several counties in the General Assembly shall remain unchanged.

Referred to Committee on Representation.

By Mr. Reese:

Resolved, That it is the sense of this convention that the present constitutional provisions relating to exempt property shall remain unchanged.

Referred to Committee on Exemptions.

By Mr. Robinson (Chambers):

Section 1. Be it ordained, that Section 1, Article 13, of the Constitution of Alabama be amended so as to read as follows:

(1) The General Assembly shall establish, organize and maintain free public schools throughout the State for the education of all children thereof between the ages of 6 and 21 years. But separate schools shall be provided for the white and colored races. All funds raised by the State for the support of public schools, except the poll tax and funds held in trust, shall be distributed to each County in proportion to the number of children therein between the ages of 6 and 21 years. And such funds shall be so appropriated in each County, so that the public schools for each race shall be taught the same length of time.

Referred to Committee on Education.

Ordinance 40, by Samford:

CONSTITUTION

Be it ordained by the people of Alabama in Convention assembled that the General Assembly of this State shall not grant the right to any city, town or municipal corporation, within this State, the power to borrow money or issue bonds in excess of the following limits: Towns of not more than one thousand inhabitants, 10,000 dollars; towns of one to four thousand inhabitants not more than $25,000; towns and cities of from four to six thousand inhabitants, not more than $75,000; towns and cities from six to ten thousand inhabitants not more than $200,000; towns and cities from ten to twenty-five thousand inhabitants, not more than $300,000; towns and cities from twenty-five to fifty thousand inhabitants not more than $500,000; provided that this clause shall not prevent any city, town, or municipal government in this State, from refunding any bonded indebtedness, now outstanding for an amount corresponding to the amount of indebtedness of such town, city or municipality.

Referred to Committee on Municipal Corporations.

By Mr. Samford:

Be it ordained that the Treasurer of this State with the approval of the Governor, shall be permitted to deposit any funds now, or hereafter, in the treasury of this State, not needed for immediate expenses in any bank, incorporated under the laws of this State, upon a deposit by such bank with the Treasurer of the State of Alabama bonds of this State to the amount of the money deposited in such bank.

Referred to Committee on Executive Department.

By Mr. Sanders (Limestone):

AN ORDINANCE

To amend Section 1 of Article 10 of the Constitution relating to exemption of personal property.

Be it ordained, That Section 1 of Article 10 of the Constitution be amended so that it shall read as follows:

The personal property of any resident of this State to the extent of one thousand dollars, to be selected by such resident, shall be exempted from sale on execution, or other process of whatsoever nature of any court; after the ratification of this Constitution.

Referred to Committee on Exemptions.

By Mr. Sanders:

AN ORDINANCE

To amend Section 2 of Article 10 of the Constitution relating to homestead exemption.

Be it ordained that Section 2 of Article 10 of the Constitution be amended so that it shall read as follows:

Every homestead, not exceeding 80 acres and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any city, town or village, or in lieu thereon, at the option of the owner, any lot in the city, town or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of two thousand dollars, shall be exempted from sale on execution, or any other power whatsoever from any court, after the ratification of this constitution.

Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of such homestead by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife to the same.

Referred to Committee on Exemptions.

By Mr. Sanders:

AN ORDINANCE

To amend Section 3 of Article X, of the Constitution, relating to homestead exemptions.

Be it ordained that Section 3 of Article 10 of the Constitution be amended so as it shall read as follows:

The homestead of the family, after the death of the owner thereof, shall be exempt, after the ratification of this Constitution in all cases during the minority of the children.

Referred to Committee on Exemptions.

By Mr. Sanford (Montgomery):

AN ORDINANCE

To prohibit a sentence for contempt of court for any act committed out of his presence without a trial by jury.

Be it ordained by the people of Alabama in Convention assembled, That no persons shall be adjudged guilty of contempt of court, for any act, speech, or publication done or made out of its presence without a trial by jury.

Referred to Judiciary Committee.

By Mr. Sanford (Montgomery):

AN ORDINANCE

To establish the Executive Department of Alabama.

Be it ordained by the people of Alabama, That the Executive Department shall consist of a Governor, a Lieutenant-Governor, Secretary of State, Auditor, Treasurer and Attorney-General, who shall be chosen by the electors of the State at the time and places at which they shall vote for representatives in the General Assembly.

Referred to Committee on Executive Department.

By Mr. Sorrell (Tallapoosa):

AN ORDINANCE

To amend Section 5 of Article IV of the Constitution of Alabama, so as to read as follows:

The General Assembly shall meet on the second Tuesday in November 1902 and every four years thereafter, at the Capitol in

the Senate Chamber and in the Hall of the House of Representatives (except in case of destruction of the Capitol or epidemics, when the Governor may convene them at such place in the State as he may deem best) and shall not remain in session longer than sixty days.

Referred to Committee on Legislative Department.

By Mr. Spragins (Madison):

That Section 1, Article 13, of the Constitution, shall be amended so as to read as follows:

The General Assembly shall establish, organize and maintain its system of public schools throughout the State for the benefit of children thereof between the ages of 7 and 21 years; but separate schools shall be provided for children of citizens of African descent, and the taxes, both poll and property, paid by white people for school purposes shall be devoted exclusively to the public schools for white children; and the taxes, both poll and property, paid by citizens of African descent for school purposes shall be devoted exclusively to the public schools for children of African descent; and any and all appropriations by the General Assembly of Alabama for public school purposes shall be devoted to the schools for white children and to the schools for the children of African descent in exact proportion to the amount of property taxes paid by the respective races.

Referred to Committee on Education.

By Mr. Spragins (Madison):

That Section 2 of Article 11 be amended so as to read as follows:

No power to levy taxes shall be delegated to individuals or private corporations. Provided, that school districts, townships, or subdivisions, or any town, city or municipality which has been made a public school district, shall have the right to impose a tax, by a majority of the qualified electors in said school district, township or subdivision, not to exceed one-fourth of 1 per centum for public school purposes, on the taxable property in said school district, township or subdivision; and provided further that the moneys collected from said tax shall be devoted exclusively to public schools in said district, township or subdivision, that which is paid by white people being devoted to the public schools for white children, and that which is paid by citizens of African descent to be devoted to schools for children of African descent.

Referred to Committee on Education.

By Mr. Spragins (Madison):

Resolved, That in any constitution that may be framed it shall be provided that all members of the General Assembly of

Alabama shall be elected for four years, and that the General Assembly shall meet once in four years, unless specially called together by the Governor, and that at its sessions only general legislation shall be enacted.

Referred to Committee on Legislative Department.

By Mr. Thompson (Bibb):

That Section 3 of Article 8 of the present Constitution be amended so that the same shall read as follows:

The following classes shall not be permitted to register, vote or hold office:

First—Those who shall have been convicted of treason, embezzlement, larceny, bribery or other crime punishable by imprisonment in the penitentiary.

Second—Those who are idiots or insane.

Third—No person shall be eligible to any office of profit or trust in this State or any county thereof, unless such person be of the white race; provided that negroes may be officers and teachers of negro schools.

Referred to Committee on Education.

By Mr. Thompson (Bibb):

Be it ordained, That Section 8, Article 13 of the present Constitution be amended so that the same shall read as follows:

No money shall be appropriated to or used for the support of any school, except to the University of Alabama, the Polytechnic Institute at Auburn, the Girls' Industrial School at Montevallo, or the common schools of the State.

Referred to Committee on Education.

By Mr. Thompson (Bibb):

Be it resolved by this Convention, That the Committee on Education shall so frame the Article on Education that no money derived by taxation upon the property of white people shall be diverted to or appropriated for the support of any schools other than those for white children.

Referred to Committee on Education.

By Mr. Vaughan (Dallas):

Whereas the Democratic party adopted a platform upon which a large majority of the delegates to this Convention were elected and

Whereas, it is right and proper that the provisions of said platform should be observed by this Convention.

Therefore be it, Resolved. That there shall be inserted in any Constitution adopted by this Convention, provisions regulating suffrage so as not to conflict with the Constitution of the United States and for the best interests of the tax payers and people of the State of Alabama.

Second, That there shall be inserted in such Constitution a provision limiting the rate of taxation by the State, counties and municipalities and that such rate of taxation shall not exceed the rate now fixed by the present Constitution, but a lower rate shall be fixed if practicable.

Third, That the said Constitution shall not deprive any white man of the right to vote except for conviction of infamous crimes.

Fourth, That section 39 of article 4 of the present Constitution, in reference to the removal and location of the State Capitol shall remain unchanged.

Fifth, That the rights and privileges conferred by the present Constitution upon corporations shall not be enlarged.

Referred to Committee on Taxation.

By Mr. Walker (Madison):

To regulate the mode of compensating the Clerk of the Supreme Court.

Be it Ordained, That the Clerk of the Supreme Court shall not, after the expiration of the term of the Clerk now in office, receive to his use any fees, costs, perquisites of the office, or compensation, other than a salary to be fixed by law, which shall not equal in amount the salary of an Associate Justice of the Supreme Court as fixed by law, and shall not be increased or diminished during the term for which he shall have been appointed.

Referred to Committee on Judiciary.

By Mr. Walker (Madison):

To amend Article 17 of the present Constitution.

Be it ordained, That the following Section be inserted between Section 1 and 2 of Article 17 of the present Constitution:

Section — Upon a ballot to be provided for use at such election the substance, subject matter or nature of the proposed amendment, shall be twice in the same language clearly indicated, followed in the one case by the word "yes," and in the other by the word "no."

The choice of the elector to be indicated by a cross mark before the answer he desires.

Referred to Committee on Amending Constitution and Miscellaneous Provisions.

By Mr. Watts:

Local Legislation—Sec. 23, Art. 4.

Section 23. No special or local law shall be enacted, granting a divorce; removing disabilities of minority or coviture; changing the name of any person or corporation; designating a district or districts where stock shall not run at large or where liquor or other commodity shall not be sold, or for the protection of game or fish; providing for the adoption of any child; establishing a dispensary or other like thing; incorporating a town or city; granting a charter or franchises to a corporation, association or individual; amending or confirming any charter; establishing a rule of descents and distributions; fixing any procedure in the courts of any county, different from the procedure in the courts of any other county; prescribing a jury-law for any county different from any other county; prescribing the fees or salary of any office; exempting any person, corporation, county, or municipality from the provisions of a general law; providing for the sale of the property of individuals or of estates; or in any case which can be provided for by a law applicable to the whole State, or where the relief sought can be given by any court in this State; nor shall the operation of any general law be suspended for the benefit of any individual, corporation, or association; nor shall any individual, corporation or association be exempted from complying with the provisions of any law. The courts, and not the General Assembly, shall judge as to the construction of this section, and all local laws of the nature described now in existence are hereby avoided, except charters of cities, towns or corporations, and except acts relieving disabilities of minority and coverture, provided that no contract made in pursuance of any such law shall be affected hereby.

Sec. 24. No law not applicable to the whole State shall be passed at all unless notice of intention to apply therefor shall have been published in the locality where the matter or things to be affected may be situated, which notice shall be given for at least one month by publication for at least once a week in some newspaper for four consecutive weeks before the time fixed by law for the assembly of the General Assembly, and the evidence of said notice having been given shall be exhibited to each house of the General Assembly and the fact of such evidence having been exhibited spread upon the journal of each House before such bill shall become a law. And no law, not applicable to the whole State, shall be passed, unless it has been submitted to a committee in each House who report that the matter cannot be, or is not, provided for in a general law, or cannot be, or is not, within the power or jurisdiction of some court.

Referred to Committee on Local Legislation.

By Mr. Watts (Montgomery):

SUFFRAGE AND ELECTIONS

1—No person shall be entitled to vote at any election or to hold office in this State who has not been registered as an elector, as hereinafter provided.

2—A general registration of all the voters in the State shall be taken at least four months before any general election for State officers, and a general registration of all the voters in a town or city at least one month before any election for municipal officers; but the General Assembly may provide for registration as to special election.

3—No person shall be permitted to register unless he is a male, 21 years of age or upwards, and will have resided in this State two years, and in the precinct (if not in a town or city) or in the town or city in which he proposes to vote, six months next before the time fixed for the election.

4—No person shall be permitted to register who has not paid all taxes legally assessed against his property prior to said registration.

5—A poll tax of $2 is hereby fixed against every male inhabitant of this State over the age of 21 years, which poll tax shall be devoted exclusively to the public schools in the counties respectively where the same shall be paid, and no person who has failed to pay said poll tax prior to registration shall be permitted to register. The General Assembly may increase the amount of the poll tax to not exceeding $5.

6—No person who has been convicted of treason, embezzlement of public funds malfeasance in office, larceny, bribery, or other crime punishable by imprisonment in the penitentiary shall be permitted to register.

7—The General Assembly shall provide stringent laws for the prosecution and punishment of all persons who shall cheat at any general or special election or at any primary, convention, or other method adopted for selecting party nominees, and no person convicted of any such offense shall be permitted to register.

8—The General Assembly shall provide stringent laws for the prosecution of all persons who shall buy, sell, barter, or offer to sell, buy, or barter any vote at any general or special election, or at or before any primary, convention, or other method adopted for selecting party nominees and no person convicted of any such offense shall be permitted to register.

9—No person, although otherwise qualified as an elector under this constitution, shall be entitled to register, vote, or hold office in this State, or in any sub-division thereof, who was not, or whose father or grandfather was not, prior to January 1st, 1861, entitled to vote in some State or Territory, unless since January 1st, 1861, he has been naturalized as a citizen

of the United States; Provided, this section shall not apply to any person whose assessed taxable property amounts in value as assessed to $1,000 or more.

10—It shall be unlawful for any person while holding any office under this State or any sub-division thereof, or under the United States, to directly or indirectly ask for, accept, or use, for himself or another, any pass or free transportation or transportation upon terms different from those open to the public generally on any railroad, steamboat or other common carrier. The General Assembly shall provide for the prosecution of all such persons, and no person convicted of any such offense shall be permitted to register.

11—Every person before being permitted to register, shall be required to sign an oath to the effect that he is qualified to register under this constitution, and that he is not disqualified under any provision of this constitution from registering, and further that while holding any office under this State, or any sub-division thereof or of the United States, since the ratification of this constitution, he has not accepted or used any pass or free transportation upon terms different from those open to the public generally, issued to him or for his use by any railroad company, steamboat company, or other common carrier.

12—All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce.

13—Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, or while going to or returning therefrom.

14—The General Assembly shall pass laws, not inconsistent with this Constitution, to regulate and govern elections in this State, and all such laws shall be uniform throughout the State.

15—It shall be the duty of the General Assembly to pass adequate laws giving protection against the evils arising from the use of intoxicating liquors at elections.

16—Returns of elections for all civil officers who are to be commissioned by the Governor, except Secretary of State, State Auditor, State Treasurer and Attorney General, and for members of the General Assembly, shall be made to the Secretary of State.

17—The General Assembly shall provide adequate means for the trial of the right to register, and all such cases shall be given precedence in the courts.

18—Every person who shall knowingly swear falsely to obtain registration shall be guilty of perjury and shall be punished on conviction as the General Assembly shall provide for the punishment of the crime of perjury generally.

Referred to Committee on Suffrage and Elections.

By Mr. Whiteside (Calhoun):

Be it ordained by the people of the State of Alabama in convention assembled, That no person shall be eligible to the office of State or County Superintendent of Education in this State who does not hold, or is unable to obtain, a first grade certificate from the State Board of Examiners of Teachers.

Referred to Committee on Education.

By Mr. Williams (Marengo):

Be it ordained by the convention, That the Committee on Judiciary so draw an ordinance that the office of Justice of the Peace be abolished in every incorporated town, village or city.

Referred to Judiciary Committee.

By Mr. Williams (Marengo):

Resolved, That the Special Committee commonly called and known as the Religious Committee, and composed of Delegates Howell, Watts and Blackwell, be and they are hereby requested to investigate and specially report as to the correctness of The Mobile Register's position as contained in the following editorial, dated May 26, 1901:

"The Constitutional Convention has formally decided that it is not good form to say Rev. ——, and has ordered the minutes to read Rev. Mr. ——. The alternative style is said to be the use of Rev. before the surname, with the given name stated or indicated. Rev. G. L. ——, therefore, is proper, according to the Constitutional Convention. The Convention has hit it wrongly. There is no merit in Rev. G. L. ——, if Rev. ——, is wrong. To say Rev. George Johnston is no better in style than to say Rev. Johnston. Best usage is to precede the title with the definite article in case the Christian name is omitted. The insertion of the Mr. simply doubles the title without adding strength to the expression.

Referred to Special Committee, Messrs. Howell, Watts and Blackwell.

THE PRESIDENT—I refer that to Committee on Providing Religious Exercises for this Convention. (Laughter.)

MR. HOWELL—I move that it be referred to the Committee on Military. (Laughter.)

By Mr. Wilson (Clarke):

AN ORDINANCE

To define the qualifications of voters in primary elections or beat meetings.

Be it ordained, That no person shall be permitted to vote in any primary election, beat meeting, or other nominating election

by a political party, unless such person is a qualified voter under the laws of this State.

Referred to Committee on Suffrage and Elections.

MR. MALONE (Henry)—I move we adjourn until 11 o'clock tomorrow morning.

MR. LOMAX (Montgomery)—Please withdraw that motion for a moment.

Motion of Mr. Malone withdrawn.

MR. LOMAX—I ask leave of absence for myself beginning tomorrow morning until Saturday.

MR. SAMFORD (Pike)—I ask leave of absence for myself for tomorrow.

MR. REESE (Dallas)—I move when this convention does adjourn, it adjourn to meet at 10 o'clock tomorrow.

MR. deGRAFFENREID (Hale)—There will be committee meeting tomorrow morning at half past 9 which could not possibly get through by 10 and it would not be advisable to meet before 11 o'clock.

MR. REESE—I withdraw my motion, as I understand the committees will meet.

MR. ASHCRAFT—I rise to a question of personal privilege.

PRESIDENT—State the question of personal privilege.

MR. ASHCRAFT—The stenographic report of the proceedings of last Saturday, in my remarks to the convention, are made to say, "I think I have the capacity and the experience which will enable me to express clearly some of the reasons why these reports should be made." I did not make that statement. I said, "I wish I had the capacity and experience which would enable me to state clearly some of the reasons why these reports should not be made."

I am quite sure it was an oversight in the stenographer.

PRESIDENT—The chair's recollection sustains the gentleman from Lauderdale in his recollection.

Convention adjourned to meet at 11 o'clock a. m. May 29.

SEVENTH DAY

MONTGOMERY, ALA.,
May 29th, 1901.

The Convention was called to order by the President, and the proceedings were opened by prayer by the Rev. Neal Anderson, as follows:

Most Gracious Lord, we invoke Thy blessings at the beginning of the work of this new day. We acknowledge Thy loving kindness and Thy watchful Providence that has kept us during the rest of the night, and has awakened us in health and strength, and pray for Thy blessing as Thy servants enter upon the active discharge of the duties to which they have been called. We thank Thee for the spirit of order and for the spirit of patriotism that has been manifested in the councils of this body, and we pray Thee that Thou wouldst speak in every heart that these, Thy servants, may realize that they are building for the future of this great commonwealth, and may they place before their individual consciousness the highest and noblest and purest ideals. May the love of country take supreme possession of their hearts in the consideration of these great problems. We do pray Thee that Thou wouldst take from them all spirit of self-seeking, all spirit of partisanship, and enable Thy servants to discharge the solemn functions of the office to which they have been called in the fear of God. Command Thy blessings upon the loved ones left at home, watch over them and keep them day by day, and prosper Thy servants in their temporal affairs, and while they have come up to this place to carry forward the interests of the people, wilt Thou grant that the interests they have left at home be under Thy precious care, and Thy grace and benediction rest upon them. These things we ask, dear Lord, and for the pardon of our sins in the name that is above all names, the name of Jesus, Son of Man, Son of Mary, Son of God and our Savior. Amen.

THE PRESIDENT—The next order is roll call.

MR. SANFORD—Before the roll is call, if it will be in order, I ask that Ordinance No. 45 be withdrawn from the Committee on the Judiciary and referred to the Committee on Preamble and Bill of Rights.

THE PRESIDENT—If there is no objection, the request of the gentleman will be granted. The Ordinance No. 45 will be so referred.

The roll was called and showed the presence of 136 members, a quorum.

MR. WEATHERLY—I desire to ask leave of absence for Mr. Cornwall of Jefferson, for today and tomorrow.

The leave was granted.

MR. HALEY—I desire to ask leave of absence for Mr. Long of Walker, and his son Henry, and also desire to state that Pierce is down in his room sick this morning.

THE PRESIDENT—For what length of time does the gentleman request leave of absence for Mr. Long?

MR. HALEY—For today.

The leave was granted.

MR. HALEY—Also for Mr. Pierce.

The leave was granted.

MR. FITTS—I respectfully ask indefinite leave of absence for Mr. Thompson of Bibb, on account of sickness in his family.

The leave was granted.

MR. FITTS—Mr. President, I ask leave for today for Mr. Cofer of Cullman.

The leave was granted.

MR. FITTS—Mr. President, on account of certain duties which will necessitate my going to the University of Alabama at its commencement, the meeting of the Board of Trustees, I re-respectfully ask leave of absence for myself for tomorrow, Friday and Saturday.

The leave was granted.

MR. DAVIS (Etowah)—I desire to ask leave of absence for myself tomorrow, Friday and Saturday, to attend a session of the Board of Trustees of the University of Alabama.

The leave was granted.

MR. BURNS—I desire to ask leave of absence for Mr. Craig of Dallas, for today.

The leave was granted.

THE PRESIDENT—The next order will be the report of the Committee on Journals.

MR. PROCTOR—Mr. Chairman, the Committee on Journal desires to again call the attention of delegates to rule No. 50, with reference to making titles to all ordinances in order that the Secretary may be able to keep track of the resolutions and ordinances.

The President stated the request. The report of the Committee on Journal was read.

MR. BURNETT—I move the adoption of the report.

The motion was carried.

MR. FITTS—I now move that the reading of the Journal be dispensed with.

The motion was carried.

MR. WALKER—I desire to call attention to a mistake in the stenographic report of the ordinance introduced by myself on yesterday, in reference to the mode of voting for Constitutional amendments. The Ordinance as printed is divided into two paragraphs. The word no in quotations was followed by a comma, and the remainder of the Ordinance was a clause constituting a part of the same section, there being but one paragraph. As printed it is not in very good shape and I desire simply to call attention to it for correction.

THE PRESIDENT—The original resolution, the Secretary informs me, is correct, and is entered correctly on the Journal.

MR. WALKER—I understand that, but it is simply for the information of the members who use these printed copies.

MR. HINSON—I notice in the official report yesterday it quotes Mr. Lomax as stating that his Ordinance on Local Legislation "is merely a readoption of the present Constitution with reference to municipal taxation, with the Birmingham amendment added." Mr. Lomax made that statement in reference to his Ordinance on Taxation, and not as the official report has it, as to the Ordinance on Local Legislation.

THE PRESIDENT—The Secretary will call the roll of delegates in alphabetical order for the introduction of ordinances, resolutions, etc.

MR. ALMON—I offer an Ordinance.

Ordinance No. 59:

An Ordinance to amend Section 5 of Article XI, of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, That Section 5 of Article XI, of the Constitution be amended so that it shall read as follows:

No county in this State shall be authorized to levy larger rate of taxation, in one year, on the value of the taxable property therein than one-half of 1 per centum. Provided, that to pay any debt or liability now existing against any county, incurred for the erection of the necessary public buildings or other ordinary county

purposes, or that may hereafter be created for the erection of necessary public buildings or bridges or improving public roads, any county may levy and collect such special taxes as may have been or may hereafter be authorized by law, which taxes so levied and collected shall be applied exclusively to the purposes for which the same was so levied and collected; Provided that the whole amount levied for the above purpose shall not exceed one-fourth of 1 per centum.

Referred to Committee on Taxation.

Resolution No. 41 by Mr. Almon:

To print 300 copies of Bill of Rights and Constitution.

Be it resolved, That 300 copies of the Bill of Rights and Constitution be printed and distributed among the members of the Convention and Committees.

Referred to the Committee on Rules.

At the calling of Mr. Banks's name he yielded to Mr. Waddell:

Ordinance No. 60, by Mr. Waddell:

An ordinance to provide for working of public roads of the state.

Sec. 1. Be it ordained by the people of Alabama in Convention assembled, That the public roads of the State shall be worked by taxation.

Sec. 2. The General Assembly shall pass such laws as may be necessary to put into operation this article of the Constitution.

Referred to Committee on Amending Constitution and Miscellaneous Provisions.

Ordinance No. 61 by Mr. Waddell:

Giving the General Assembly power to pass laws governing the gathering and marketing of farm products raised in this State.

Be it ordained by the people of Alabama, in convention assembled, That the General Assembly shall have power to pass such laws as may be necessary to govern and control the gathering and marketing of farm products raised in this State.

Referred to Committee on Legislative Department.

Ordinance 62, by Mr. Barefield:

To amend Article I, Section 1 Declaration of Rights of the Constitution of Alabama.

Be it ordained by the people of Alabama in convention assembled, That Section 1, of Article I be amended so as to include the word reputation.

Referred to Committee on Preamble and Bill of Rights.

Ordinance No. 63, by Mr. Beddow:

To amend Section 7, Article XI, taxation of the Constitution, of Alabama.

Be it ordained by the people of Alabama in convention assembled, That Section 7, Article XI be amended as follows:

By striking out the word (preceding) where it occurs in the fourth line of said section, and inserting in the place thereof the word "same."

Referred to Committee on Taxation.

Ordinance No. 64, by Mr. Beddow:

To amend Section 12, Article I, bill of rights of the Constitution of Alabama.

Be it ordained by the people of Alabama in convention assembled.

That Section 12, Article I of the constitution be amended so as to read as follows:

The right of trial by jury shall be secured to all and remain inviolate; but in civil actions three-fourths of the jury may render a verdict.

Referred to Committee on Preamble and bill of rights.

Ordinance No. 65, by Mr. Blackwell:

An ordinance to prohibit any person who, while a candidate for any office, shall be guilty of bribery, or fraud, or willful violation of any election law, from voting or holding office in this State.

Be it ordained by the people of Alabama in Convention assembled, That any person who shall while a candidate for any office be guilty of bribery, fraud, or willful violation of any election law, shall upon conviction be forever disqualified from holding any office of trust or profit in this State, and shall be forever deprived of the right of suffrage. And no future legislature shall have the power to remove the disabilities so incurred. Any person violating this ordinance shall be punished by imprisonment in the penitentiary for not less than one year, and the legislature may by appropriate legislation add greater punishment if it see fit.

Referred to Committee on Suffrage and Election.

Ordinance No. 66, by Mr. Blackwell:

An ordinance to prohibit any person who practices fraud in elections from voting or holding office in this State.

Be it ordained by the people of Alabama, in convention assembled, That any person who shall give or promise or offer to give to an elector, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, or who shall give or promise to give such consideration to any other person or party for such elector's vote, or for the withholding thereof, for himself or another, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, shall, upon conviction, be forever disfranchised, and shall be denied the right forever afterwards to hold any office of trust or profit in this State. No future Legislature shall have the power to remove the disabilities so incurred. Any person violating this ordinance shall be punished by imprisonment in the penitentiary for not less than one year, and the Legislature, by appropriate legislation, may add greater punishment if it sees fit.

Referred to Committee on Suffrage and Election.

Ordinance No. 67, by Mr. Blackwell:

To provide for the filling of all vacancies that may occur in county offices by direct vote of the people.

Be it ordained by the people of Alabama, in convention assembled, That when a vacancy occurs in any county office, by death, impeachment or removal of an official, or for any other cause it shall be the duty of the Governor to call an election within thirty days after he receives notice of such vacancy or vacancies, to fill the same, and the people shall vote directly for the person or persons of their choice to fill said vacancy or vacancies.

Referred to Committee on Executive Department.

Ordinance No. 68, by Mr. Blackwell:

Providing that each county shall have a Superintendent of Education, who shall be elected by the people and shall possess certain qualifications.

Be it ordained by the people of Alabama, in convention assembled, That each county shall have a Superintendent of Education, who, under the control and direction of the State Superintendent of Education, shall have supervision of the public schools of his county; said County Superintendent of Education shall be elected by direct vote of the qualified electors of the county. No person shall be eligible to election as County Superintendent of Education who does not at least hold a first grade certificate as teacher and make teaching his vocation.

Referred to Committee on Education.

Ordinance No. 69, by Mr. Boone:

To amend Article XIV, Section 1, of the Constitution of Alabama.

Be it ordained by the people of Alabama, in convention assembled, That Article XIV, Section 1 of the Constitution of Alabama be amended so as to read as follows:

Corporations may be formed under general laws, but shall not be created by special act. All general laws or special acts creating or authorizing the creation of corporations passed since July 13th, 1868, and all general laws enacted pursuant to this section may be altered, amended or repealed.

See Mayor of Mobile vs. Stonewall Insurance Co., 53 Ala., Page 576.

Referred to Committee on Corporations.

Ordinance No. 70, by Mr. Boone:

To amend Article I, Section 12 of the Constitution.

Be it ordained by the people of Alabama, in convention Assembled, That Article I, Section 12, of the Constitution of Alabama be amended so as to read as follows:

Article I, Section 12—That right of trial by jury as heretofore enjoyed shall remain inviolate; but in civil actions three-fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases, not amounting to a felony, by the consent of both parties expressed in open court, and in civil actions by the consent of the parties signified in such manner as may be prescribed by law.

Referred to Committee on Preamble and Declaration of Rights.

Ordinance No. 71, by Mr. Boone:

An ordinance to amend Article I, Section 23 of the Constitution of Alabama.

Be it ordained, by the people of Alabama in convention assembled, That Article 1, Section 23 of the Constitution of Alabama be amended so as to read as follows:

Article I, Section 23, That no expost facto law, or any law impairing the obligation of contracts, or making grants of exclusive privileges or immunities shall be passed by the General Assembly.

See Birmingham Street Railway cases, 79 Alabama, pages 473, 474 and 475.

Referred to Committee on Preamble and Bill of Rights.

Ordinance No. 72, by Mr. Boone:

An ordinance to amend Article XIV, Section 10, of the Constitution of Alabama.

Be it ordained by the people of Alabama in convention assembly, That Article XIV, Section 10, of the Constitution of Alabama be amended so as to read as follows:

"The General Assembly shall have the power to alter, revoke or amend any charter of incorporation now existing and revocable at the ratification of this constitution whenever in the opinion of the General Assembly it may be injurious to the citizens of the State; in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall renew or extend the charter of more than one corporation.

Referred to Committee on Corporations.

Ordinance No. 73, by Mr. Browne:

An ordinance to amend Section 7, Article XI of the Constitution.

Be it ordained by the people of the State of Alabama in convention assembled that Section 7 of Article XI of the Constitution be amended by adding therein, after the words "such indebtedness" the following:

"Provided no city, town or other municipal corporation shall issue bonds in an amount in excess of 10 per centum of the value of the taxable property therein, as shown by the last preceding assessment thereof for State and county taxation, but this limitation shall not apply to such bonds as may have been already issued or authorized to be issued."

Referred to Committee on Municipal Corporation.

Ordinance 74, by Mr. Bulger:

To revise and amend Article XIII of the present Constitution of this State which relates to education.

Be it ordained by the people of the State of Alabama in convention assembled, That Article XIII of the present Constitution of the State of Alabama be amended so as to read as follows:

Article XIII—Education.

Section 1. The General Assembly shall establish, organize, and maintain a system of public schools throughout the State for the benefit of the children thereof, between the ages of 7 and 21 years; but separate schools shall be provided for the children of citizens of African descent.

Sec. 2. The principal of all funds arising from the sale or other disposition of lands or other property, which has been or may hereafter be granted or intrusted to this State, or given by the United States, for educational purposes, shall be preserved inviolate and undiminished; and the

income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations.

Sec. 3. All lands or other property given by individuals, or appropriated by the State for educational purposes, and all estates of deceased persons who die without leaving a will or heir shall be faithfully applied to the maintenance of the public schools.

Sec. 4. The General Assembly shall also provide for the levying and collection of an annual poll tax, not to exceed $1.50 on each poll, which shall be applied to the support of the public schools in the counties in which it is levied and collected.

Sec. 5. That each male inhabitant in this State between the ages of 21 and 50 years shall be subject to the payment of a poll tax.

Sec. 6. The poll tax of each race shall be kept separate, and the poll tax paid by the white race shall be appropriated to the support and maintenance of the schools attended by the children of the white race, and the poll tax paid by the race of African descent shall be appropriated to the support of the schools attended by the children of the race of African descent.

Sec. 7. The income arising from the sixteenth section trust fund, the surplus revenue fund, until it is called for by the United States Government, and the funds enumerated in Sections 3 and 4 of this article, with such other monies, to be not less than $500,000 per annum as the General Assembly shall provide by taxation or otherwise, shall be applied to the support and maintenance of the public schools; and it shall be the duty of the General Assembly to increase, from time to time, the public school fund, as the condition of the treasury and the resources of the State will admit.

Sec. 8. Not more than 6 per cent of all monies raised or which may hereafter be appropriated for the support of public schools shall be used or expended otherwise than for the payment of teachers employed in such schools; Provided, that the General Assembly may by a vote of two-thirds of each house suspend the operation of this section.

Sec. 9. The supervision of the public schools shall be vested in a superintendent of education, whose powers, duties and compensations shall be fixed by law. The Superintendent of Education shall be elected by the qualified voters of the State in such manner, and at such time as shall be provided by law, whose term of office shall be four years, and he shall be ineligible for re-election to succeed himself.

Sec. 10. No money raised for the support of the public schools of this State shall be appropriated to, or used for, the support of any sectarian or denominational school.

Sec. 11. The State University, the Agricultural and Mechanical College, and the Girls' Industrial School shall each be under the management and control of a board of trustees. The board for the University shall consist of two members from the Congressional District in which the University is located, and one member from each of the other Congressional Districts,

and one member from the State at large. The board for the Agricultural and Mechanical College shall consist of two members from the Congressional District in which the college is located, one from each of the other Congressional districts, and one from the State at large. The Board for the Girls' Industrial School shall consist of two members from the Congressional District in which the college is located, one from each of the other Congressional Districts and three female trustees from the State at large. Said trustees shall be appointed by the Governor, by and with the consent of the Senate, and shall hold office for a term of six years, and until their successors shall be appointed and qualified. Each of said boards shall be divided into three classes as nearly equal as may be. The seats of the first class shall be vacated at the expiration of two years, and those of the second class in four years, and those of the third class at the end of six years, from the date of appointment, so that one-third may be chosen bi-annually. No trustee shall receive any pay or emolument, other than his actual expenses incurred in the discharge of his duties as such, the amount of which expenses shall be shown by itemized statement, sworn to by the trustee. The Governor shall be ex-officio president, and the Superintendent of Education ex-officio member of each of said boards of trustees.

Sec. 12. The General Assembly shall have no power to change the location of the State University, the Agricultural and Mechanical College, or the Girls' Industrial School as now established by law, except by a vote of two-thirds of the members of the General Assembly, taken by yeas and nays, and entered upon the journals.

Sec. 13. All taxes paid by the two races shall be kept separate and distinct and appropriations for the support of the schools of the white race, shall be made out of the taxes paid by the white race, and appropriations for the support of the schools of the race of African descent shall be made out of taxes paid by the race of African descent.

Referred to Committee on Education.

Ordinance No. 75, by Mr. Burns.

An ordinance to exempt veterans of the civil war from payment of licenses, etc.

Be it ordained, That all ex-soldiers of the war of 1861-5 shall not be required to pay any license for doing or carrying on any business or occupation in which his own manual labor is necessary.

Referred to Committee on Taxation.

Ordinance No. 76, by Mr. Burns:

An ordinance to add an additional section to Article VIII of the Constitution of Alabama.

Be it ordained that Section 8 of the Constitution of Alabama be amended by adding: No person shall vote at any primary election, or in any convention, or other regular political assembly held for the purpose of nominating any candidate for public office unless

he be at the time a registered or qualified voter. And in all political conventions held in this State the apportionment of representation shall be on the basis of population.

Referred to Committee on Suffrage and Elections.

Ordinance No. 77, by Mr. Carmichael (Colbert):

An ordinance to amend Section 1 of Article XIII of the Constitution.

Be it ordained by the people of Alabama, in convention assembled, That Section 1 of Article XIII of the Constitution be amended so as to read as follows:

(1) The General Assembly shall establish, organize and maintain a system of public schools throughout the State for the benefit of the children thereof between the ages of 7 and 21 years; provided, that the General Assembly shall apportion the public school fund between the white and negro children in such manner as may to them seem just and equitable, and provided the funds apportioned to the white children shall be equally divided between all the white children and the funds apportioned to the negro children shall be equally divided between all the negro children of the State; but separate schools shall be established for the children of African descent.

Referred to Committee on Education.

Ordinance No. 78, by Mr. Carmichael (Coffee):

An ordinance to regulate the granting of franchises by municipal corporations.

Be it ordained by the people of Alabama, in convention assembled, That no municipal corporation shall grant an exclusive franchise to an individual or private corporation, unless an election be held under the laws regulating municipal election, and a majority of the qualified voters at such election vote for the granting of such franchises.

Referred to Committee on Municipal Corporations.

Ordinance No. 79, by same:

An Ordinance to amend Section 24 of Article IV, of the present Constitution.

Be it ordained, by the people of the State of Alabama, in Convention assembled, that Section 24 of Article IV, of the present Constitution be amended so as to read as follows:

"No general law from which any county or municipality shall be excepted, and no local or special law shall be passed by the General Assembly unless notice of the intention to secure the passage of such law be given by publication in a newspaper pub-

lished in the county to be affected by such law, or in which the municipality to be affected by such law is situated, or in which the person to be benefited by such law resides; said notice shall contain the caption of the proposed law, and shall be published at least four consecutive weeks, not longer than sixty nor less than ten days prior to the introduction of such bill; a copy of the notice and affidavit of the correct publication shall be attached to the bill introduced and be made a part of the House and Senate Journals, and be read at length at each reading of the bill.

Provided, That in the event the publication cannot be procured at the legal advertising rates, then existing, the publication above required shall be made by posting it at least five public places in each precinct in the county, and an affidavit that such publication could only be procured in such manner shall take the place of the newspaper publisher's affidavit aforementioned.

Referred to Committee on Local Legislation.

Ordinance No. 80, by same:

An Ordinance to make the pay of the public school teachers a preferred claim.

Be it ordained by the people of the State of Alabama in Convention assembled, That the General Assembly shall enact laws making the pay of teachers in the public schools claims against the moneys in the State Treasury preferred above all others, except the interest on the public debt.

Referred to Committee on Education.

Ordinance No. 81, by Mr. Case:

Ordinance to amend Article I. of the Constitution — Declaration of Rights.

Be it ordained by the people of Alabama in Convention assembled, That Article I, of the Constitution be amended so as to read as follows:

That the great, general and essential principles of liberty and free government may be established, we declare:

First—That all men are equally free and independent; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; and that the sole object and only legitimate end of government is to protect the citizen in the enjoyment of these principles; and when the government assumes other functions, it is usurpation and oppression, and that this State shall not make or enforce any law which shall abridge the principles or immunities of citizens of the United States; nor shall it deny to any person within its jurisdiction the equal protection of the laws:

Referred to Committee on Preamble and Declaration.

Resolution No. 42, by Mr. Case:

Whereas, The State of Alabama is far behind other States appertaining to educational advantages and most especially as relating to public schools; and,

Whereas, It has been suggested that school districts should be laid off in every county, town and city in this State, and at each such district be empowered to vote any taxes upon itself for the education of its children, which it may see proper; and that the 10 cents now levied on every $100 worth of taxable property by the State for school purposes be repealed; and,

Whereas, Should that be done, a great many of such school districts would be composed entirely of very poor people, and thinly settled; and,

Whereas, It has been further suggested that, when the above mentioned changes shall have been effected, the State shall stop its appropriations to the common schools; and, whereas, should this be done, each such school would be confined, for support, alone to the taxes levied in its own district, which would cause the common schools in the rural districts to languish and die as it were, for want of sufficient funds which to educate their children; and many bright-eyed boys and girls, the parents of whom fortune has failed to favor, would not have an equal chance for a common school education with the children of those wealthy districts, blessed with railroads, and the homes of many capitalists and large corporations possessed of their millions. For such last named schools would get the principle amount of such money for educational purposes, leaving the poor rural districts almost absolutely destitute of educational aid; therefore, be it

Resolved, That it is the sense of this convention that it hold intact the present provision of 10-cent tax upon the $100 of assessible property in the State, to be levied and collected for the support of the common schools; and that it request the Legislature to make additional appropriations for such schools, from time to time, whenever the financial condition of the State will justify it.

Referred to Committee on Education.

Resolution No. 43, by Mr. deGraffenreid:

To authorize the President of this convention to appoint two short-hand reporters to serve the committees and the members of this convention.

Resolved, That the President of this convention shall appoint two short-hand reporters, at a salary of $2.50 per day, whose duty it shall be to wait upon and serve the committees of this convention, when directed to do so, by the chairmen thereof, and when

not performing work for the committees to wait upon and serve the members of this convention in the preparation of ordinances, resolutions and motions to be submitted to this convention. The said short-hand reporters appointed under this resolution shall have, as their regular place of business the cloak room of the Senate chamber.

Referred to Committee on Rules.

Ordinance No. 28, by Mr. Duke:

To amend Section 5, Article V, of the Constitution.

Be it ordained by the people of Alabama, in convention assembled, That Section 5, Article V, of the Constitution be amended so as to read as follows:

The Governor, Secretary of State, State Treasurer, State Auditor and Attorney-General shall hold their respective offices for the term of four years from the time of their installation in office and until their successors shall be elected and qualified.

Referred to Committee on Executive Department.

Ordinance No. 83, by Mr. Duke:

To amend Section 4 of Article IV of the Constitution.

Be it ordained by the people of Alabama in Convention assembled; that Section 4 of Article IV of the Constitution be amended so as to read as follows:

Senators shall be at least 25 years of age, and representatives 21 years of age; they shall have been citizens and inhabitants of this State three years and inhabitants of their respective counties or districts one year next before their election, if such county or district shall have been so long established; but if not then of the county or district from which the same shall have been taken, and they shall reside in their respective counties or districts during their terms of office.

Referred to Committee on Legislative Department.

Ordinance No. 84, by Mr. Eyster:

To amend Section 2 of Article II of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, that Section 2 of Article II of the Constitution be amended so as to read as follows:

Section 2. The boundaries of the several counties of this State as the same now exist are hereby ratified and confirmed. The General Assembly may by a two-thirds vote of both houses thereof arrange and designate the boundaries for the several counties of this State, which boundary shall not be altered except by

a like vote; but no new counties shall be hereafter formed of less extent than four hundred square miles and no existing counties shall be reduced to less extent than four hundred square miles, and no new counties shall be formed which does not contain a sufficient number of inhabitants to entitle it to one representative under the ratio of representation existing at the time of its formation, and leave the county or counties from which it is taken with the required number of inhabitants entitling such county or counties to separate representation.

Referred to Committee on State and County Boundaries.

Ordinance No. 85, by same:

Be it ordained by the people of Alabama, in Convention assembled, that Section 35 of the Declaration of Rights be, and the same hereby is repealed.

Referred to Preamble and Bill of Rights.

Ordinance No. 86, by same:

An ordinance relating to the State University.

Be it ordained by the people of Alabama in Convention assembled.

Section 1. The State University shall be under the management and control of a board of trustees, which shall consist of two members from the Congressional District in which the University is located, and one from each of the other Congressional Districts in the State. Said trustees shall be appointed as follows: The Governor shall appoint three, the Chief Justice shall appoint three, and the Society of the Alumni of the University of Alabama shall appoint four. All by and with the advice and consent of the Senate, and they shall hold office for a term of six years and until their successors are appointed and qualified. Should the number of Congressional Districts be increased beyond nine in number, the Society of the Alumni shall appoint the additional trustees for such increased congressional representation. Should the number of congressional districts be reduced, the number of trustees to be appointed by the Governor shall be correspondingly reduced. The terms of office of the present trustees as they expire, shall be filled by appointment by the Society of the Alumni, the Chief Justice and the Governor, each appointing one in the order named, beginning with the Society of the Alumni.

Sec. 2. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such, except for extraordinary services the compensation for which must be agreed upon by the other members of the board before such extraordinary services are rendered or entered upon.

Sec. 3. The Governor shall be Ex-officio President, and the Superintendent of Education Ex-officio a member of said board of trustees.

Sec. 4. The General Assembly shall have no power to change the location of the State University except upon a vote of three-fourths of the members of the General Assembly taken by yeas and nays and entered upon the journals.

Referred to Committee on Education.

Resolution No. 44, by same:

Resolved, That the office of Reading Clerk of this Convention is hereby created, and the compensation of such Reading Clerk shall be the same as that of the Assistant Secretary.

MR. PARKER—I move that the rules be suspended and that that resolution be adopted.

A vote being taken, the rules were suspended, and a further vote being taken, the resolution was adopted.

Ordinance No. 87, by Mr. Ferguson:

An Ordinance concerning the right of citizens to bear arms.

Be it ordained by the people of Alabama in Convention assembled, That in lieu of Section 27 of Article I. of the Constitution of 1875, the following provision shall be enacted:

Section —. That every citizen has a right to bear arms in defense of himself and the State, but the General Assembly shall have the power to regulate the bearing of small arms, shall define the same, and shall pass laws requiring a license for the bearing of such small arms.

Note—For the benefit of the Committee the following authorities are cited:

Miller vs. Texas, 153 U. S. P., 533, and authorities there cited: 92 U. S. P. 542; 116 U. S. P. 252.

Referred to Committee on Preamble and bill of Rights.

MR. BLACKWELL—I move that the rules be suspended and that W. W. Brandon be elected Reading Clerk.

THE PRESIDENT—He has already been appointed.

Resolution No. 45, by Mr. Ferguson:

Resolved, That in framing the suffrage clause to the Constituition to be enacted by this Convention, due regard shall be given to the following well known principles:

First—That the ability to read and write is not a supreme test of good citizenship.

Second—That the inability to read and write is not a test of good citizenship.

Third—That the true test of good citizenship is the patriotic and fairly intelligent use of the ballot in the hands of those who look to their country's good, free from malevolent or corrupting influences of any character whatever, and who, by inherited characteristics, act for the best interests of good government.

Fourth—That it is the purpose of this Convention in conferring the electoral franchise, to give it in harmony with these principles, to the end that good government shall be made secure, and that substantial, patriotic citizenship shall be recognized, in accordance with the Fifteenth Amendment to the Federal Constitution.

Referred to Committee on Suffrage and Elections.

Ordinance No. 88, by Mr. Fitts:

An ordinance to repeal Section 38 of the present Bill of Rights.

Be it ordained by the people of Alabama in Convention assembled, That Section 38 of the Bill of Rights be and the same is hereby repealed.

Referred to Committee on Preamble and Bill of Rights.

Ordinance No. 89, by Mr. Fletcher:

An Ordinance to Amend Section 7, Article XI, of the Present Constitution in regard to the taxation of municipal corporations.

Be it ordained by the people of Alabama in Convention assembled, that Section 7 of Article XI, be amended by striking out the words "assessed for State taxation during the previous year."

Also by striking out "1 per cent." as an additional rate, when it occurs, and insert one-half of 1 per cent. And the re-adoption of the Section as amended.

Referred to Committee on Taxation.

Ordinance No. 90, by Mr. Foster:

An ordinance to define general laws.

Be it ordained by the people of Alabama, in convention assembled, That the general laws within the meaning of this Constitution, are laws which operate on all the subjects or all of the class of subjects which they affect uniformly throughout the territorial limits of the State, and laws which fix the time of holding terms of courts. All other laws are local or private.

Referred to Committee on Local Legislation.

To amend Article VIII of the Constitution.

To amend Section 9, Article VIII of the Constitution.

Ordinance No. 91, by Mr. Foster:

Be it ordained by the People of Alabama, in convention assembled, That Section 1 of Article VIII of the Constitution be amended by substituting therefor the following:

Every male citizen of the United States who is twenty-one years old and upward, possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election by the people except as otherwise provided in this Constitution: First, he shall have resided in the State at least two years immediately preceding the election at which he offers to vote. Second he shall reside in the county one year and in the precinct or ward three months immediately preceding the election at which he offers to vote. Third, he shall have paid on or before the first day of March in the year in which such election is held and on or before the first day of March of each year in which he shall be liable for poll tax intervening between the year in which such election shall be held and the last general election next preceding, a poll tax of $1.50; and shall upon offering to vote produce and show to the managers of election receipts for such poll taxes, signed by the officer charged by the law for the collection of taxes in the counties in which such poll taxes shall have been paid. The officers, whose duty it shall be to collect taxes in their respective counties shall provide each year well-bound books, in which they shall record the names of all persons paying poll taxes, with the precinct of their residence, which books shall be by such officers delivered to the Probate Judges of their respective counties on or before the first day of April of each year, and the said Probate Judges shall immediately, upon the delivery of such books to them, so mark such books at the end of the list of names therein as that no other names may be added thereto. Such books shall be preserved as other records of the office of the Probate Judge, and upon any contest of election shall be evidenced for either party to the contest; provided, that no person shall be entitled to vote unless he shall have registered as required by law at least three months prior to the election at which he offers to vote, and, provided, further, that any person offering to vote after five years from the date this Constitution is ratified, shall possess all qualifications and shall have complied with all the requirements prescribed above, and shall also, without aid, write his own name on the book of registration at the time he registers or shall have paid at least $5 as taxes to the State and county upon property bona fide owned by him and listed for taxation for the year immediately preceding the year in which the election at which he offers to vote shall be held. And, provided, further, that the tax collectors shall receive no commission or compensation for collecting the poll taxes provided for above, and that no compulsory process for the collection of such poll tax shall ever be authorized by law.

Referred to Committee on Suffrage and Election.

Ordinance No. 92, by Mr. Foster:

To amend Section 9, Article XIII of the Constitution.

Be it ordained by the people of Alabama, in convention assembled, That Section 9 of Article XIII of the Constitution be amended so as to read as follows:

The State University, located at Tuscaloosa, and The Agricultural and Mechanical College, located at Auburn, shall be under the control and management of one and the same board of trustees; said board shall consist of seven trustees, one of whom shall be ex officio the State Superintendent of Education, who shall be the President; two of said trustees shall be appointed by the Governor; one shall be elected by the faculty of the University of Alabama; one by the faculty of the Agricultural and Mechanical College; one by the alumni of the University of Alabama and one by the alumni of the Agricultural and Mechanical College. The term of office as trustee of the Superintendent of Education shall continue during the term of his State office; the terms of the other six trustees shall begin on the date of their election or appointment, and shall expire after periods ranging from one to six years each, so that one trustee shall go out of office each year. The order in which their terms shall expire shall be determined by lot or otherwise by the trustees themselves. When the terms of any one of said six trustees has expired, his successors shall be appointed or elected for a term of six years in the same manner as in the first instance. In case the office of any trustee is vacated in any manner before his term has expired his successor shall be elected or appointed, as the case may be, for the balance of the unexpired term.

The Senate at every session shall confirm or disaffirm the appointment or election of those trustees who have come into office since the last General Assembly; and in case they do not confirm the appointment or election of any trustee they shall declare his office vacant and elect a person to fill the place for the balance of the unexpired term.

No trustee shall receive any pay or emolument other than actual expenses actually incurred in the discharge of his duties as such.

Referred to Committee on Education.

Ordinance No. 93, by Mr. Foster:

An ordinance to further restrict the power of the General Assembly in the passage of local laws.

Be it ordained by the people of Alabama in convention assembled, That the General Assembly shall not have power to pass any local, private or special laws in any of the following enumerated cases, but shall provide for such matters only by general laws, viz:

First—Concerning fees or compensation of any officer of this State, or of any county thereof.

Second—Defining crimes and misdemeanors and regulating the punishment thereof.

Third—Authorizing or regulating the levy, assessment or collection of taxes of any kind by any county or municipal corporation.

Fourth—Authorizing any county or municipal corporation to incur indebtedness or to issue and sell bonds or other securities.

Fifth—Chartering any private or municipal corporation, or amending the charters of any such now in existence.

Sixth—Locating or changing county seats, except upon the organization of new counties.

Referred to Committee on Local Legislation.

Ordinance No. 94, by Mr. Glover:

To amend Section 12, Article I of the Constitution of Alabama.

Be it ordained by the people of Alabama, in convention assembled; That Section 12, Article I of the Constitution of Alabama be amended so as to read as follows:

That right of trial by jury shall remain inviolate, but the number to comprise the jury can be regulated by law.

See Collins vs. State 83 p. 212 and 96 Ala. p. 571.

Referred to Committee on Preamble and Bill of Rights.

Ordinance No. 95, by Mr. Glover:

Be it ordained by the people of Alabama in convention assembled, That Section 1, Article XIII of the Constitution of Alabama be amended so as to read as follows:

That it shall be the duty of the legislature to encourage by suitable means, the promotion of education, by establishing a uniform system of free public schools, by taxation or otherwise, for all children between the ages of 7 and 21 years, but separate schools shall be provided for the children of citizens of African descent.

Referred to Committee on Education.

Mr. Oates took the chair.

Ordinance No. 96, by Mr. Graham (Montgomery):

An ordinance to amend Section 1 of Article V of the Constitution of Alabama.

Be it ordained by the people of Alabama in convention assembled, That Section 1 of Article V of the Constitution be amended so as to read as follows:

The Executive Department shall consist of a Governor, Secretary of State, State Treasurer, State Auditor, Attorney General, Superintendent of Education, Commissioner of Agriculture and a sheriff for each county.

Referred to Committee on Executive Department.

Ordinance No. 97, by same:

An ordinance to amend sections 23 and 24 of Article IV of the Constitution of Alabama.

Section 1. Be it ordained by the people of Alabama in Convention assembled; That Section 23 of Article IV of the Constitution of Alabama be amended so as to read as follows: No special or local law shall be enacted for the benefit of individuals or corporations, in cases which are or can be provided for by a general law, or where the relief sought can be given by any court of this State; nor shall the operation of any general law be suspended by the General Assembly for the benefit of any individual, corporation or association. In passing upon questions arising under this section, the courts are authorized to determine the fact as to whether or not the purpose of the statute in question could have been accomplished under a general law.

Sec. 2. Be it further ordained, that Section 24 of Article IV of said Constitution be amended so as to read as follows: No local or special law shall be passed on a subject which can be provided for by a general law, unless notice of the intention to apply therefor shall have been published in the locality where the matters or things to be affected may be situated; which notice shall be at least twenty days prior to the introduction into the General Assembly of such bill, and the evidence of such notice having been given shall be exhibited to the General Assembly and noted on the journal of the House in which such bill is introduced before it shall be passed. The courts must determine the fact of such notice and indulge no presumptions in reference thereto; provided, that the provisions of this Constitution, as to special or local laws, shall not apply to public or educational institutions of or in this State, nor to industrial, mining, immigration or manufacturing corporations or interests, or corporations for constructing canals, or improving navigable rivers or harbors of this State.

Referred to the Committee on Legislative Department.

Resolution No. 46, by Mr. Graham (Montgomery):

Resolved, That the Secretary of State be and is hereby instructed to furnish each member of this Convention a copy of the Code of Alabama (Civil and Criminal) taking his receipt therefor.

Resolved, further, That immediately before this Convention shall adjourn sine die, the members thereof shall return to the Secretary of State the codes delivered to them, and take up their receipts therefor.

Referred to Committee on Rules.

MR. HOWELL—I move that the rules be suspended and that resolution be passed immediately.

MR. O'NEAL—My impression is that the act providing for the holding of this Convention ordered the Secretary of State to furnish delegates with a Code.

MR. JACKSON—I desire to ask if a resolution was not introduced and referred to some committee requiring a certain number of copies of Constitutions to be printed and placed on the desks.

THE PRESIDENT PRO TEM.—That was referred to the Committee on Rules.

MR. JACKSON—Then I move that that Committee be instructed by the Convention to report.

A reading of the clause of the act calling the Convention in this regard was called for and it was read as follows:

Section 9. Be it further enacted, That the delegates to said Convention shall be supplied with stationery and the use of the books, statutes, reports and documents the same as members of the General Assembly.

MR. WILSON—I am requested by the Doorkeeper to announce that the Codes are ready for delivery upon being receipted for.

THE PRESIDENT—Further action, then is unnecessary.

MR. GRAHAM (Montgomery)—Under the circumstances I ask leave to withdraw the resolution which I introduced. I have been sitting here for several days trying to keep up with the Convention and it is impossible to do so without having before me the Constitution of the United States and of Alabama. Being unable to secure them I introduced the resolution. The condition being as it is, I withdraw the resolution.

Leave was granted.

Ordinance No. 98, by Mr. Graham (Talladega):

To amend Section 25 of Article VI of the present Constitution, relating to the election of solicitors by the people.

Be it ordained by the people of Alabama in Convention assembled.

That a solicitor for each Judicial Circuit in this State shall be elected by the qualified electors of such circuit every four years and such solicitors shall not be eligible to succeed themselves after having been once so elected. Such solicitors shall be learned in the law and shall reside in the respective circuits wherein elected; provided, that the General Assembly may provide for County Solicitors of City Courts who shall be learned in the law and shall be elected by the qualified electors of the County where such court is established. The term of office of such solicitors shall not exceed four years, and they shall be ineligible to succeed themselves after having been once so elected.

Referred to Committee on Judiciary.

Ordinance No. 99, by Mr. Gravson:

To amend Section 2 of Article I. of the Constitution of 1875.—Relating to Declaration of Rights.

Be it Ordained, That Section 2 of Article I. of the Constitution of 1875, be, and the same is hereby amended to read as follows:

Sec. 2. That all persons resident in this State, born in the United States, or naturalized, or who shall have declared their intention to become citizens of the United States and who have been bona fide citizens of the State of Alabama, or of the United States for five years, are hereby declared citizens of the State of Alabama possessing equal civil and political rights.

Ordinance No. 100, by same:

An Ordinance to amend Section 5 of Article XIII. of the Constitution of 1875.

Be it ordained, That Section 5, Article XIII. of the Constitution be and the same is hereby amended to read as follows:

Section 5. The income arising from the sixteenth section trust fund the surplus revenue fund, until it is called for by the United States Government, and the funds enumerated in Sections 3 and 4 of this Article, with such other moneys, to be not less than $100,000 per annum, as the General Assembly shall provide by taxation or otherwise, shall be applied to the support and maintenance of the public schools.

Be it further ordained, That it shall be the duty of the General Assembly to provide a law for an election, to be held in any township or other school district, upon petition of one-fourth of the registered voters of said township or district, not oftener than every two years, to determine whether or not a tax shall be levied upon the property of said township or district to supplement the public school fund; said petition to designate the tax rate which shall not exceed one-fourth of 1 per cent. Provided, that taxes collected from the property of the white race shall be appropriated as a supplement to the white public schools of that township or district, and that collected from the property of the negro race to be appropriated as a supplement to the public schools of the negro race in that township or school district. And provided, further, that the taxes collected from the property of corporations in said township or district shall be appropriated to the public schools of each race in the same proportion that the property of each race of that township or district bears to the property of the other race.

Referred to Committee of Education.

Resolution No. 47, by Mr. Greer (Calhoun):

Resolved, That a tax of $1.50 per head be and is hereby levied against all dogs, bitches, all other species of the canine family, and said tax to be levied and collected in same manner that present

poll tax is levied and collected, the same to be used exclusively for school purposes, and each school district, or township, is to have all of said funds collected in its own township or district, provided, however, that any person or persons convicted of stealing a dog, bitch, or other species of dog, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than $50 nor more than $500, and also be sentenced to hard labor for the county for not more than six months at the discretion of the court, and all such fines collected shall go into the general school fund, and the same shall be distributed as may be prescribed by law.

Referred to Committee on Education.

THE PRESIDENT PRO TEM—There is no committee on Dogs, and the Chair would inquire what reference the delegate desires.

MR. GREER (Calhoun)—Refer it to the Committee on Education.

MR. GRAHAM (Talladega)—Is that a reflection on the Committee on Education.

MR. GREER (Calhoun)—Without any reflection on any other Committee, I consider the Committee on Education the most intelligent committee, and I asked for reference to it.

Resolution No. 48, by Mr. Henders:

Resolved, That no county site shall be removed except it be done by a majority of the voters of the county by ballot.

Referred to Committee on State and County Boundaries.

Resolution No. 49, by Mr. Greer (Calhoun):

Resolved, That no bill shall be introduced in the General Assembly during the last fifteen days of its session that is purely local in its nature.

Referred to Committee on Legislative Department.

Ordinance No. 101, by Mr. Handley (Randolph):

An ordinance providing for a reduction in taxation and certain contingencies.

Be it ordained by the people of Alabama in convention assembled, That if at any time there is a surplus in the State Treasury above the needs of the State Government economically administered, it shall be the duty of the Governor to report that fact to the General Assembly, and in that event, it shall be the duty of the General Assembly to reduce the rate of taxation of three-fourths of one per centum allowed by this constitution in such proportion that such surplus bears to the ordinary expenses of the

State Government honestly administered, provided the same can be done without detriment to the best interests of the State.

Referred to Committee on Taxation.

Ordinance No. 102, by Mr. Heflin (Randolph):

An ordinance to confirm and ratify Section 12 of Article I of the Constitution.

Be it ordained by the people in convention assembled, That Section 12 of Article I of the Constitution of Alabama, which reads as follows: "That the right of trial by jury shall remain inviolate" is hereby ratified and confirmed.

Referred to Committee on Preamble and Bill of Rights:

Resolution No. 50, by Mr. Henderson (Pike):

Resolved, That 500 copies of the present Constitution be printed for the use of the members of this convention.

Referred to Committee on Rules.

Resolution No. 51, by Mr. Henderson:

Resolved, That the rate of interest in this State shall be fixed at 6 per cent per annum: Provided, any rate may be contracted for, not exceeding 10 per cent per annum, and that these rates shall not be increased or lessened by law. And that no days of grace be hereafter allowed on commercial or negotiable paper.

Referred to Committee on Banks and Banking.

Resolution No. 52, by Mr. Henderson:

Resolved, That a commission known as the Railroad Commission of Alabama be established by the new constitution. That it consist of one president and two associates. One to be elected by the people, one by the Senate, and one to be appointed by the Governor. They shall hold office for six years, but it shall be so arranged that one shall go out of office every two years. Said Commission shall have power:

First—To exercise a general supervision over all railroads and other common carriers of this State.

Second—To revise all tariff rates for transportation and adjust the same to just and equitable compensation, and to prevent all unjust discrimination.

Third—To require needful improvements, fencing and repairs, and to require the establishment and charges of stations.

Fourth—To hear and determine all complaints by and against railroads and other common carriers, and its judgments, orders and decrees shall have the force and effect of judgments of law,

and it shall have full power to enforce them as may be provided by law.

Fifth—Said commission shall do and perform any duty required of it by law.

Referred to Committee on Corporations.

Resolution No. 53, by Mr. Henderson:

Resolved, That the new constitution shall provide, that no person of African descent shall hold office in this State, except as a teacher in the public schools of his race. Nor shall any such person be drawn to serve as a juror in the courts of this State.

Referred to Committee on Judiciary.

Resolution No. 54, by Mr. Henderson:

Resolved, That the new constitution provide, that the Governor of this State shall not be eligible to the Senate of the United States while in office, nor within one year thereafter.

Referred to Committee on Executive Department.

MR. WEATHERLY—Does not Rule 23 require all resolutions to be referred to the Committee on Rules.

THE PRESIDENT PRO TEM—The Chair did not observe that these were resolutions, but thought they were ordinances. The references will be changed.

MR. HOWZE—My friend has a printed rule which he is evidently reading from, and that rule has been changed and all resolutions go to the proper committees.

THE PRESIDENT PRO TEM—The first references were proper.

Resolution No. 55, by Mr. Henderson:

Resolved, That the new constitution provide, that no member of the General Assembly be allowed mileage for the distance traveled to and from the seat of government, where he travels by public conveyance free of charge.

Referred to Committee on Legislative Department.

Resolution No. 56, by Mr. Henderson:

Resolved, That Section 30 of the Declaration of Rights be amended to read as follows:

That no title of nobility or hereditary distinction, privilege, honor or emolument, shall ever be granted or conferred in this State; and that shall be no unjust discrimination against the rights of persons or the rights of things, except in the exercise of the

police powers, and of eminent domain of government, and to exempt from taxation property used for educational, charitable and religious purposes; and that no office shall be created, the appointment to which shall last longer than good behavior.

Referred to the Committee on Preamble and Bill of Rights.

Resolution No. 57, by Mr. Henderson of Pike:

Resolved, That no special tax shall be levied and collected to pay the salary of any officer of this State, nor to maintain any separate State Department.

Referred to Committee on Taxation.

Resolution No. 58, by Mr. Henderson:

Resolved, That the homestead of every resident of this State be exempt from any sale under execution or other legal process from any court, and from sale under mortgage, nor shall the same be waived in any manner for the payment of any claim for money.

Provided, said homestead shall be liable for the purchase money and for any lien created by law for labor and material furnished for improvements or betterments. If said homestead is not in any city, town or village, it shall not exceed in area more than eighty acres and shall not be increased or lessened in area by law. If in any city, town or village it shall not exceed in value two thousand dollars.

There shall also be exempt in the same manner the following personal property: All household and kitchen furniture, all family portraits and pictures, all books used in the family, but said personal property shall be liable for payment of any lien for rent for any house used as a dwelling place for such family.

There shall also be exempt from sale under execution or legal process issued from any court, personal property to be selected by the owner not to exceed in value one thousand dollars. But this exemption may be mortgaged, sold by private sale or under legal process where the same is waived as provided by law, for the payment of any debt contracted since the adoption of this Constitution.

Referred to Committee on Exemptions.

Resolution No. 59, by Mr. Henderson:

Resolved that the new Constitution provide that no bonded indebtedness shall be authorized by law to be created by any county, city, town, or other sub-division of the State, unless by the consent of a majority of the legally qualified voters residing within the district to be affected, such consent to be ascertained by an election, as may be provided by law. For the payment of bonds issued under this provision for educational purposes, no tax exceeding one-fourth of one per cent shall be levied and col-

lected upon the assessed value of the property within the district for which such bonds may issue.

Referred to Committee on Taxation.

Ordinance No. 103, by Mr. Hinson:

An ordinance to amend Section 24, Article IV, of the Constitution of Alabama.

Be it ordained by the people of Alabama, in convention assembled, That Section 24 of Article VI, of the Constitution be amended so as to read as follows:

No local or special law shall be passed on a subject which cannot be provided for by a general law, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be effected may be situated, which notice shall be at least thirty days prior to the introduction into the General Assembly of such bill; the evidence of such notice shall be exhibited to the General Assembly before such act shall be passed, and the journals shall affirmatively show that such notice has been given and the evidence thereof exhibited to the General Assembly.

Referred to Committee on Legislative Department.

MR. WEATHERLY—I submit to the chair that Rule 28 requires that all resolutions as distinguished from ordinances shall be referred to the Committee on Rules and this is the exception which was engrafted at the request of the gentleman from Montgomery "except resolutions relating to the privileges of the Convention or of members, orders of the day, motions to discharge the Committee on Rules from the consideration of a resolution or to order it to report back by a day certain." That is my recollection of the rule as amended.

MR. WILSON (Clarke)—I call attention to the President to Rule 54 which defines the term "resolution" and the term "ordinance" as used in these rules. Rule 54 says that the term resolution as used in the rules refers to some proposition which is not entended to be engrafted in the Constitution. Therefore when the rule that provides that all resolutions shall be referred to the Committee on Rules is read in the light of Rule 54 it must be construed that all resolutions which do not have for their purpose the engrafting of something into the Constitution shall be referred to the Constitution on Rules and any proposition which is meant to be made a part of the Constitution, whether the delegate calls it a resolution, a composition or what not, goes to the appropriate Committee and is not governed by the rule referred to by the gentleman from Jefferson.

THE PRESIDENT PRO TEM.—The Chair is of the opinion that the delegate from Clarke puts the proper construction upon

the rule. Wherever the resolution refers to some matter that is a rule of proceeding or something other than something to go in the Constitution, it certainly is required to be sent to the Committee on Rules but though it be in the form of a resolution when it pertains to changes in the Constitution it should be referred to the committee having jurisdiction over that branch of the Constitution.

Ordinance No. 104, by Mr. Howell:

Regulating the per diem and mileage of the General Assembly of Alabama.

Section 1. Be it ordained by the people of Alabama in Convention assembled: That, from after the ratification of the Constitution now being formulated, the per diem of members of the General Assembly shall be five dollars, and fifty cents per mile in going to and returning from the seat of government, the distance travelled to be computed from the court house of each county by the usual route of travel, and mileage shall not be paid for but one trip at any one ssession.

Referred to Committee on Legislative Department.

Ordinance No. 105, by Mr. Howze (Jefferson):

An Ordinance to require salaries for Judges to be paid by the State.

Be it ordained by the people of Alabama in Convention assembled, That the salary of all Judges of the Supreme Court, Circuit Court, Chancery Court, and all inferior courts having and exercising criminal jurisdiction, shall be paid by the State.

Referred to Committee on Judiciary.

MR. SMITH (Mobile)—I am directed by the Rules Committee to make a report. Under Rule 41 the Rules Committee may report at any time.

THE PRESIDENT PRO TEM—The gentleman is in order and the Clerk will read the report.

The report was read as follows:

The Committee on Rules have considered the resolutions hereinafter mentioned, and beg leave to report in regard thereto as follows:

It reports, as a substitute for Resolution No. 11, offered by Mr. Rodgers of Lowndes, the following resolution, and recommends its adoption by the Convention:

Resolved, That until otherwise ordered this Convention shall meet regularly at 10 o'clock, and stand adjourned at 1 o'clock p. m.

It reported favorably Resolution No. 12, introduced by Mr. Bulger of Tallapoosa, and recommends its adoption by the Convention. Said resolution reads as follows:

Resolved, That whereas, Hon. Jno. B. Knox, the distinguished President of this Convention, delivered a most able address, outlining our plans, policies and duties looking to the framing of a Constitution for our State, therefore be it

Resolved, That the Secretary of the Convention be and is hereby directed to have printed 5,000 copies of the address for the use of the members of the Convention.

It reports favorably that the substance of Resolution No. 15, offered by Mr. Watts of Montgomery, has already been embodied in the rules of the Convention, and further consideration thereof, becomes unnecessary.

It reports favorably upon Resolution No. 14, introduced by Mr. Rodgers of Sumter, and recommends its adoption by the Convention. Said resolution reads as follows:

Resolved, That the Secretary of this Convention procure, and have printed in consolidated form for the use of its members 500 copies of those sections relating to suffrage in the Constitutions of the following States: Connecticut, Massachusetts, Maryland, Pennsylvania, North and South Carolina, Mississippi, Louisiana, California and Utah.

The said resolutions hereinabove referred to are herewith returned to the Convention.

MR. O'NEAL—I move to amend Resolution 14 by adding the dates at which these constitutions were adopted and also to incorporate the general laws of the State of Massachusetts in reference to suffrage and elections.

MR. COLEMAN (Greene)—Only a portion of the laws of the State of Massachusetts will be needed.

MR. O'NEAL—My motion is to incorporate the last statute of that State with reference to suffrage and elections.

A vote being taken the amendment was adopted.

MR. CUNNINGHAM—I move to amend Resolution 14 by adding "so much of the Constitution of the United States as relates to this subject."

THE CHAIRMAN PRO TEM.—Does the delegate mean the Twelfth, Thirteenth and Fourteenth amendments?

MR. CUNNINGHAM—Yes, and also the first section of the article in regard to the qualifications of electors in elections for

Congress. It is only a small portion and it will be a ready reference for every delegate to have before him.

THE CHAIRMAN PRO TEM.—The delegate will reduce his amendment to writing.

MR. PROCTOR—I would suggest to the gentleman from Jefferson that each delegate has at his desk a Code of Alabama which contains the very thing he wants.

MR. SAMFORD—I rise to a point of inquiry. The other day we ordered some publications of the rules with certain other matter. As one delegate to the convention, I would like to know when we are to get them.

THE PRESIDENT PRO TEM.—The chair is informed that the printer is at work on that matter now and it will soon be ready.

The amendment of Mr. Cunningham was reduced to writing and was read as follows: "Amend by adding so much of the Constitution of the United States as relates to suffrage and elections.

A vote being taken, the amendment was adopted.

MR. JONES (Montgomery)—I will move to amend the report of the committee as to the time for adjournment, by striking out one o'clock and inserting "at will." There may be occasions when we cannot adjourn at one, and I think we ought to be able to hold on as we please.

A vote being taken, the amendment was lost on a division—ayes, 54; noes, 56.

MR. KIRK—I move that the hour of adjournment be two o'clock instead of one.

A vote being taken, this amendment was lost, and a further vote being taken, the report of the committee, as amended, was adopted.

MR. GREER—Mr. President, I move that we adjourn.

MR. BULGER—I move that this convention do now adjourn until tomorrow at 10 o'clock.

PRESIDENT PRO TEM—Before putting the motion to adjourn, the chair desires to make some announcements as to committee meetings.

The announcements were read by the clerk.

PRESIDENT PRO TEM—I will state to the convention, if the delegate from Tallapoosa will withhold his motion for that purpose, that there is a communication I have, addressed to Mr.

Knox, President of the Convention. If he will withhold his motion, and it is desired the communication shall he read. Does the gentleman withhold the motion.

Cries of leave.

MR. COLEMAN (Greene)—Who is the author of the communication.

PRESIDENT PRO TEM—I see it is signed Booker T. Washington.

MR. SAMFORD—I move that we adjourn.

Cries of "read it."

MR. COLEMAN (Greene) — I was just going to remark that the author of that communication is the most noted man of his race in the State, and perhaps in the South, and under the circumstances, as we are considering a question in which he and his race are vitally interested, I for one would be pleased to hear it read. I move that it be read to the convention.

MR. WILLETT—I rise to a point of order.

PRESIDENT PRO TEM—The gentleman will state his point of order.

MR. WILLETT—We have just adopted a rule that this house adjourn at 1 o'clock. It is after one now and it stands, adjourned by that rule.

MR. JONES (Montgomery)—I move to suspend the rules then.

THE PRESIDENT PRO TEM—I think the report of the committee was adopted after 1 o'clock, and the chair will hold that the point is not well taken. Hereafter it may be.

MR. ROGERS (Sumter)—I would like to suggest that we might hear it tomorrow. If the communication is of much importance it had better be postponed until morning. I merely make that as a suggestion. I move that it be postponed.

Seconded.

MR. COLEMAN (Greene)—Mr. President we are here, and I do not suppose it would take but a very short time to read it.

PRESIDENT PRO TEM—Does the gentleman from Sumter insist on the motion or withdraw it?

MR. ROGERS (Sumter)—I withdraw the motion.

The paper was read and is as follows:

May 23, 1901.

Hon. John B. Knox, President, Alabama State Constitutional Convention, Montgomery, Ala.:

Dear Sir—I have been appointed chairman of a committee composed of Messrs. W. H. Councill, Henry A. Loveless, William Watkins, W. R. Pettifold, Charles O. Boothe and Dr. S. S. H. Washington, to present the enclosed address representing the feelings and wishes of the colored people of the State of Alabama to your convention, and I very much hope that you can see your way clear to have it read to the convention and to make whatever disposition of it you think proper. Yours truly,

Booker T. Washington.

To the Members of the Constitutional Convention:

Since it is true that our race numbers in this State about 800,000 and there is no member of the race a member of your body, who can speak directly for us in an official capacity, we do not think that you will misunderstand the object and spirit of this communication, for it is not sent to you in a dictatorial, fault-finding spirit, but with an earnest desire to be of some assistance in the performance of a grave and perplexing task. We make ourselves all the more bold to send you this communication because members of your body in nearly every part of the State have expressed a desire to hear from us.

It could not be expected that the 800,000 colored people in this State would not have some interest in the deliberations of a body that is to frame the fundamental law under which both races are to be governed in this State, perhaps for all future time.

Your petitioners are not stirrers-up of strife between the races, but we feel that the questions with which you are to deal are above and beyond party politics. Each of us, in some calling, is a hard working, tax-paying, and, we trust, law-abiding citizen, and we believe that we represent in a large measure the feelings and desires of the masses of our people in the State.

We beg to your honorable body to keep in mind in dealing with the problems that grow out of our presence that, as a race, we did not force ourselves upon you, but were brought here, in most cases against our will, but nevertheless we recognize that since being here, we have been vastly benefited. We have gotten habits of industry, the English language, and the Christian religion, and at the same time, we have tried in an humble way to render valuable service to the white men in clearing the forests, building the railroads, cultivating the lands, working the mines, as well as in many forms of domestic service and in other activities. Our fathers and mothers have helped nurse you and your children, and when the male members of the family were away from home fighting in war that might have meant our continued enslavement, we remained at home, working your farms, supporting and protecting your helpless wives and daughters. When we have been called to perform any duty of citizenship, whether fighting a

foreign foe, working the public roads, or any other duty, we have tried to do our best.

We beg of you to bear in mind that for more than twenty years the negro in this State has not, as a rule, been a disturbing or offensive element. Immediately after the war, we made mistakes just as would have been true of any people placed in the same position, but we have learned our lesson from those mistakes and they are not likely to be repeated.

The changes wrought by time and the providence of God, it seems to us, place your body in a particularly responsible position. You assemble at a time when your actions will not be directed or restricted by any pressure from the Federal government or elsewhere. The North is almost unanimous in its agreement that the future of the negro in a large degree rests with the South. Almost for the first time since freedom came to us, a law-making body assembles in the South, bearing the supreme law-making power of the State, and is left free to act entirely untrammeled by outside influences. Almost for the first time, the negro is to rest his future in a large degree upon the conscience and intelligence of a great law-making body of a great Southern State. You have the power. The world will watch while you act.

It requires little thought, effort or strength to degrade and pull down a weak race, but it is a sign of great statesmanship to encourage and lift up a weak and unfortunate race. Destruction is easy; construction is difficult.

There are those among your petitioners who have persistently urged the negro to learn to trust his future with his Southern white neighbor and that when the supreme test came he would receive justice at his hands. This is a crucial hour for those who have thus advised our race, but we do not believe that our faith in you will be misplaced. We believe that the possession of great power will deepen your sympathy for the weak and dependent elements of our population.

It seems to us on the whole, that the relations of the two races in this State are reasonably satisfactory, and we tremble with fear lest something will be done to disturb these relations and to bring discouragement and demoralization to our race.

Of the greatest importance is the economic consideration. The greater portion of our people are settled upon the plantations in the cotton raising districts, while a large number of others is in the mining districts. These people are occupying and cultivating land that is largely owned by white people or operating other industries owned by white people. Still others are buying homes and thereby contributing to the welfare of the State. In most cases, they are a contented, producing, law-abiding people. Already, alarm is beginning to spread among them and their fears are being worked upon by emigration agents and exodus associations who are telling them that under the new Constitution the negro's citizenship will be taken from him and that his schools will be virtually blotted out. These agencies expect in one way or another to reap gain by reason of something that you will do in your Convention.

Anything that will unsettle and cause excitement of people at the present time, when, more than ever, in all parts of the State, the race is beginning to improve, to settle down to habits of thrift, economy and common sense, will not only prove injurious to our race, but to yours also. The history of all races proves that a contented, intelligent, friendly working class is the greatest possession of any State.

The negro youth must have some incentive for right and useful living held out to him. Let the negro feel that no matter how intelligent or useful he makes himself, that there is no hope of reward held out before him, and there will be danger that he will become a beast, revelling in crime and a body of death about the neck of the State. In a thousand ways, the ignorant, shiftless, criminal negro will retard the progress of the white race.

The negro is not seeking to rule the white man. In this State the negro holds not a single elective office. Whenever he votes, he usually votes for some white man and is learning more and more to vote for the best white man. There is in the last analysis a feeling of tenderness, good will and sympathy existing between the two races in this State, which the outside world can hardly understand or appreciate. We pray that this relation may not be disturbed.

The negro does ask, however, that since he is taxed, works the roads, is punished for crime, is called upon to defend his country, that he have some humble share in choosing those who shall rule over him, especially when he has proven his worthiness by becoming a taxpayer and a worthy, reliable citizen. While the amount of direct taxes paid by the negro is small, all will acknowledge that he is a large factor in enabling some one else to pay taxes for the negro who rents a farm or a house not only pays the rent, but indirectly, the taxes also.

We rejoice in that we have reached a period in our development when we can speak in frank but friendly terms of the objects of your convention, the chief aim of which is we trust, the wise and just government of the people of Alabama. In this high purpose, your petitioners agree and sympathize with you. We are all owners of property and tax payers and have the same interest in good government that you have. We know that the task before you is a delicate, trying and perplexing one. In this connection, we desire to add that, in our humble opinion, while there may be doubt and uncertainty in many directions, one thing is absolutely and unmistakably clear—that nothing that is not absolutely just and fair, will be permanently successful.

Any law which will merely change the name and form of fraud, or can be interpreted as meaning one thing when applied to one race and something else when applied to another race, will not in our opinion improve our present condition, but may unsettle the peace and thrift of our people and decrease the wealth and prosperity of Alabama.

While you deliberate and act, be assured that you will have the prayers and good wishes of thousands of black people in every part of our State.

(Signed.) Respectfully submitted,

Chas. O. Boothe,	A. J. Wood,	Henry Todd,
D. H. Tulane,	J. W. Adams,	S. Ross,
Elijah Cook,	John N. Brown,	R. H. Herron,
John L. Thomas,	Alfred C. Dungee, M.D.	W. R. Pettiford,
M. H. Adams,	Booker T. Washington	W. H. Council,
Moses Davis,	S. S. H. Washington, M.D.	R. B. Hudson,
H. J. A. Loveless,	C. F. Steers, Sr.,	R. E. Lee,
A. J. Wilborn,	William Watkins,	Ad. Wimbs.

Mr. Greer renewed the motion to adjourn and on a vote it was carried and the convention adjourned.

EIGHTH DAY

MONTGOMERY, ALA.,
May 28, 1901.

The convention was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Anderson as follows: Almighty God, we adore Thee as the King eternal, immortal, invisible, infinite and unchangeable in Thy being, wisdom, power, holiness, justness, goodness and truth, and we pray Thee that Thou wouldst fill all of our hearts this day with the consciousness of Thy presence, and that Thy holy spirit rule in every breast. We thank Thee that Thou hast watched over us and kept us during the dark watches of the night. Many others have been tossed to and fro upon their beds until the morning, racked with suffering and pain, but Thou hast permitted us to remain in health and strength, and brought Thy servants into this place of business. We pray Thee to add to all the gifts of Thy providence and Thy grace the gift of truly grateful hearts. Command Thy blessing upon Thy servant, the Governor of this commonwealth. We thank Thee for his restored health, and we pray Thee that Thou wouldst spare his life unto the work whereto Thou hast called him. Bless all that counsel with him. We pray for Thy blessing upon the judges of this State, that the fear of God may reign within them, and that they may judge righteously. Let Thy special blessing rest upon the members of this Constitutional Convention. May they realize the high and solemn obligation of this office to which they have been called, and may they discharge its functions in the spirit of love of country, of duty and of God, and so, out of the deliberations of these Thy servants, we pray Thee that Thou wouldst bring a blessing to this great State. And Our Father, we pray for Thy blessing upon the loved ones

at home, that Thou wouldst watch over them and care for them during the absence of the heads of the homes, and may Thy peace abide in all of our hearts, and may Thy blessing rest upon our lives, through Jesus Christ, our Lord, Amen.

The roll was called and showed the presence of 131 delegates.

MR. LEIGH—I respectfully ask indefinite leave of absence for Mr. Burnett of Conecuh on account of sickness in his family.

The leave was granted.

MR. deGRAFFENREID—I ask leave of absence for Hon. John J. King of Marengo County until next Tuesday.

The leave was granted.

MR. COLEMAN (Greene)—Mr. President, rise to a question of privilege, I desire to have the times and places of meeting of the several committees announced.

The secretary read the announcements as follows:

Times and places designated for the meetings of the several committees:

Suffrage, 9 a. m.—Senate Chamber.

Education, 4 to 5 p. m.—Supreme Court Room at the call of the chairman.

Legislation, 3 to 4 p. m.—22 1-2 South Perry Street.

Taxation, 5 p. m.—Supreme Court Library.

Corporations, 4 p. m.—Senate Chamber.

Local Legislation, 8 p. m.—Supreme Court Library at the call of the chairman.

Executive, 4 p. m.—16 South Perry Street.

Municipal Corporations, 8 p. m.—Place to be selected.

Judiciary, 5:30 p. m.—Graham & Steiner's office.

Banking—Room 5 in Merchants Hotel, at call of chairman.

Exemptions, 4:30 p. m.—House of Representatives at the call of the chairman.

State and County Boundaries, 8 p. m.—Senate Chamber at the call of the chairman.

Impeachments—At the call of the chairman.

Amending Constitution, 1 p. m.—Supreme Court Room at the call of the chairman.

Schedule and Printing, 9:30 a. m.—House of Representatives, Thomas W. Coleman.

MR. JENKINS (Wilcox)—I desire to ask leave of absence for E. A. Graham of Montgomery for today.

The leave was granted.

MR. SAMFORD (Montgomery)—I move to fill the blank in the resolution in regard to the meeting of the Committee on Municipal Corporations—in the law office of John W. A. Samford, Jr., at the corner of Perry and Dexter Avenue.

PRESIDENT—Unless there be objection, that amendment will be made.

MR. COLEMAN (Greene.)—Those appointments or places were agreed upon by the several chairmen of the respective committees—I know nothing myself.

MR. SANFORD—It was left blank, and I was to inform them if I could get a room for them.

PRESIDENT—Is that satisfactory to the chairman of the committee

MR. COLEMAN—Yes.

MR. SAMFORD (Pike)—I rise to a question of personal privilege.

PRESIDENT—The gentleman will please state his question of personal privilege.

MR. SAMFORD—Some of the reports of committees have my name, and some of them the name of my friend, Gen. John W. A. Sanford of Montgomery on the Committee on the Executive. I would like that the clerk read the names of the members on that committee.

The secretary again read the names of the committee showing the name of Mr. Samford, not Sanford.

PRESIDENT—The next business will be the report of the Committee on Journal.

MR. HOWELL—Mr. President if I remember correctly, almost every morning this week some gentleman on this floor has arisen and called attention to some error in the official stenographic reports of the proceedings of this body. I find in the proceedings of yesterday a very flagrant mistake. In the ordinance I introduced, regulating the mileage and per diem of the members of the General Assembly, that proposed to make the per diem five dollars per day, and the mileage five cents, the official report has it "fifty cents a mile", going and returning from the capital.

Now, sir, it is in no spirit of adverse criticism to the officer, because I think, taking all things into consideration, he is doing elegant work, knowing, as I do, the difficult task, with the amount of work done and reported, to have everything correct; but these papers go to the public, as the official reports of the proceedings of this body, and they are presumed to be absolutely correct. Therefore, there ought to be some remedy in case these errors creep in, unavoidably it seems. There ought to be some remedy to correct them, and I offer a resolution to remedy that trouble and ask a suspension of the rules that it may be put upon its immediate passage.

The resolution was read as follows:

No. 60, By Mr. Howell—Whereas, Some errors have been found in the official reports of the published proceedings of this convention, and in order that these errors in the future may be corrected, be it therefore resolved, that the stenographer is hereby directed each day to correct any errors which may have been made in reporting the proceedings of the preceding day, under the appropriate head.

MR. HOWELL—I will state my idea, Mr. President—

THE PRESIDENT—The gentleman from Cleburne moves that the rules be suspended and that the resolution be placed upon its immediate passage.

MR. HOWELL—My idea is that at the close of the proceedings of the day to have a little supplement headed with the correction of the errors of yesterday. That is my idea of the intention of the resolution.

MR. WILSON (Clarke)—I do not know that I have any objection to the resolution proposed by the gentleman from Cleburne. In fact, it seems to me, that something of that kind may be necessary, but in order that the resolution may be properly considered in all its bearings, it seems to me it would be better to let it be referred for that reason.

MR. HOWELL—It is a very plain, simple proposition. I suppose every member understands it. It is a very simple proposition, and if you will allow me, we are anxious to have this correction made that occurred on yesterday, because they would want to hang me to a sour apple tree for proposing to give men fifty cents a mile to the capital and back.

THE PRESIDENT—The question is on the motion of the gentleman from Cleburne that the rules be suspended.

Upon a vote, the rules were suspended, and on a further vote the resolution was adopted.

MR. WATTS—Mr. President, with the consent of the chairman of the Committee on Local Legislation, I desire to change the place of meeting of that committee from the Supreme Court Library at 8 o'clock, to the office of Watts, Troy & Caffee, at 8 o'clock.

THE PRESIDENT—Unless there be objection, the change will be made.

MR. WILLETT—I desire to ask the unanimous consent of the House in order to make a motion that 300 copies of the report showing where the standing committees meet be printed, for the use of the members. It is very inconvenient to run around to find out where our respective committees meet, but we do not know where the Committee on Education, etc., meets, and we would have to go to some member of that committee before the adjournment of the House to find out, and it seems to me that it ought to be printed so each one will have a pamphlet to know exactly if we should have any business before the committees.

THE PRESIDENT—The gentleman asks unanimous consent to have 300 copies of the report fixing the time of the meetings of the standing committees printed; is there objection.

MR. O'NEAL (Lauderdale)—Objection.

MR. BROWNE—I would like to ask if the rules have been printed, and suggest, if they have not yet been printed, that they be incorporated into the rules. It could be very well done, and would be in convenient form.

THE PRESIDENT—The chair is informed that the rules are in the press.

MR. BULGER—I object to the proposition stated by the gentleman from Pickens that 300 copies of pamphlets stating where these committees meet, be printed, because this stenographic report that comes out tomorrow morning will contain the information that is desired by the gentleman from Pickens to be put in this pamphlet; and it seems to me it would be an unnecessary expense to this convention and I, therefore, object.

THE PRESIDENT—Objection being made, the motion is not in order at this time. The next order of business will be the report of the Committee on the Journal.

The report was read, stating that the journal for the seventh day had been examined and found to be correct. The report, on motion, was adopted.

THE PRESIDENT—The next order of business will be the reading of the journal of yesterday, if it is not dispensed with.

MR. GREER (Calhoun) — I move that the reading of the journal of yesterday be dispensed with.

The motion was carried.

MR. GRAHAM (Talladega)—I ask unanimous consent that an ordinance which was undoubtedly by error referred to my Committee, be referred to the Committee on Suffrage and Elections. It is document number 50, and relates solely to those who shall vote, and hold office, and I ask unanimous consent that this document now be referred to the Committee on Suffrage and Elections.

THE PRESIDENT—Unless there be objection the ordinance will be so referred.

MR. FLETCHER (Madison) — I introduced an ordinance, number 89, which was referred to the Committee on Taxation which related exclusively to municipal corporations; I ask that it be withdrawn from that Committee and be referred to the Committee on Municipal Corporations.

THE PRESIDENT — Unless there is objection, ordinance No. 89 will be withdrawn from the Committee on Taxation, and referred to the Committee on Municipal Corporations.

THE PRESIDENT—The Clerk will continue the call of the roll for the introduction of ordinances, etc., where we left off on yesterday.

Ordinance 106, by Mr. Jackson:

To readopt Section 10 of Article XIII of the Constitution of 1875 relating to the removal of the State University or the Agricultural and Mechanical College.

Be it ordained by the people of the State of Alabama in Convention assembled, that the General Assembly shall have no power to change the location of the State University or the Agricultural and Mechanical College as now established by law, except upon a vote of two-thirds of the members of the General Assembly, taken by yeas and nays and entered upon the journals.

Referred to Committee on Education.

Resolution No. 61, by Mr. Jackson.

Resolved, That the respective committees in charge of the different subjects to be dealt with by this Convention be instructed to adhere to, and this Convention pledges itself to the following purposes:

1. That suffrage shall be so regulated as not to conflict with the Constitution of the United States.

2. That the rate of taxation by State, counties and municipalities shall not exceed the limit fixed by the present Constitution of the State.

3. That the qualifications for suffrage shall be so framed as not to deprive any white man of the right to vote, except for infamous crime.

4. That the provisions of the present constitution relating to exemptions of real and personal property shall remain unchanged.

5. That the State Capitol shall remain at Montgomery, and that no power or authority be granted by this Constitution or any legislature to provide for its removal.

6. That the rights and privileges conferred by the present Constitution upon corporations shall not be enlarged.

Referred to Committee on Rules.

MR. JACKSON—There has been several resolutions introduced here relating to promises and pledges made by the delegates in this Convention which have been referred to the different committees. One, however, was adopted by this House last week promising to refer the Constitution, when framed, to a vote of the people of Alabama for their ratification or rejection. Now, in the language of the distinguished gentleman from Jefferson, I move a suspension of the rules and that this resolution be put upon its immediate passage.

MR. VAUGHAN—Some days ago I introduced a resolution very similar to that and that resolution was referred to a Committee, I don't know which one.

THE PRESIDENT—The resolution was referred to the Committee on Rules.

MR. VAUGHAN—I think that Committee ought to report the resolution.

THE PRESIDENT—The question is on the motion to suspend the rules.

MR. ROGERS—Do you say that resolution is not debatable.

THE PRESIDENT—The question is on the motion to suspend the rules.

MR. ROGERS—And it is not debatable?

THE PRESIDENT—That is the decision of the Chair.

A vote being taken the rules was lost.

THE PRESIDENT—The resolution will be referred to the Committee on Suffrage and Election.

MR. CUNNINGHAM—I suggest to the Chair, not as an interpretation of the Chair's duty, that as that relates to the entire business of the Convention, it might properly be referred to the Committee on Rules.

THE PRESIDENT — Unless there be objection, the Chair will order the resolution, at the suggestion of the gentleman from Jefferson, to be referred to the Committee on Rules. It seems to cover quite a large number of subjects dealt with by quite a number of Committees of the Convention.

Resolution No. 62, by Mr. Jenkins:

Refers to State Colleges and Institutions.

Resolved, That a committee be raised to consist of fifteen members to be appointed by the President to take into consideration all matters pertaining to the University of Alabama, the Girls' Industrial School for white girls, the Alabama Polytechnic Institute, and other State colleges and institutions of learning. Said committee to be styled and called the Committee on State Colleges and Institutions.

Referred to Committee on Rules.

THE PRESIDENT—The resolution will be referred to the Committee on Education.

MR. JENKINS — I ask its reference to the Committee on Rules. We have a rule that all resolutions shall go to the Committee on Rules.

THE PRESIDENT — Where they relate to matters being dealt with by different committees the understanding of the chair is that they should be referred to their proper committees. This matter refers to education in the opinion of the Chair and should be referred to that committee.

MR. JENKINS—I make the point that the rules say all resolutions shall go to the Committee on Rules. This is a matter for the government of the Convention.

MR. OATES—I think the delegate who offers the resolution is slightly mistaken. The rule to which he refers is so modified that resolution pertaining to any particular matter involving a change should be referred to the Committee in charge of such committees.

THE PRESIDENT—That is the understanding of the Chair and the Chair overrules the point of order but will call for a reading of the resolution again as the Chair may not have caught it exactly and so be in error.

The resolution was again read.

THE PRESIDENT—The Chair failed to catch the first sentence. The Chair will reconsider the ruling and will refer the resolution to the Committee on Rules.

Resolution No. 63, by Mr. Jones (Bibb):

Refers to representation:

1. Be it resolved that representation in the lower House of the General Assembly of this State shall be based on the entire population of Alabama, and that no County have less than one representative to be elected by the legal voters of this State every four years.

2. That the Senate of Alabama shall be composed of members from each County to be elected every four years by the qualified electors of this State.

Referred to Committee on Representation.

Resolution No. 64, by same:

Relates to suffrage.

Be it resolved that no man of foreign birth be entitled to the rights of suffrage in the State of Alabama until he has become a bona fide citizen of the United States under the provisions of the revised statutes of the United States.

Referred to Committee on Suffrage and Elections.

Ordinance No. 107, by Mr. Jones (Montgomery).

An ordinance to amend Sections 9, and 10 of Article XIII of the constitution.

Be it ordained by the people of Alabama in convention assembled that Sections 9 and 10 of Article XIII of the Constitution be amended so as to read as follows:

Sec. 9. The State University and the Agricultural and Mechanical College shall each be under the management and control of a Board of Trustees. The Board of Trustees for the State University and the Board of Trustees for the Agricultural and Mechanical College shall each consist of nine members, selected as follows: Two of the trustees in each of said Boards shall be appointed by the Governor with the advice and consent of the Senate, and vacancies occurring in such trustees during the recess may be filled by appointment of the Governor, expiring at the end of the next session of the General Assembly. Two of the Trustees in each of said Boards shall be elected by the qualified voters of the State. Two of the Trustees of each of said Boards shall be elected by the Alumni, respectively of the State University and the Agricultural and Mechanical College, under such rules and regulations as may be prescribed by law. The remaining three trus-

tees in each of said Boards shall be elected by the six Trustees hereinabove provided for. The terms of the trustees provided herein shall begin upon the first day of March, 1903. At the first meeting of the Trustees each Board shall be divided by lot into three classes; the seats of the first class shall be vacant at the expiration of two years; those of the second class in four years and those of the third class in six years, so that one-third shall thereafter be chosen biennially. Vacancies in the Trustees elected by the Alumni or by the people shall be filled by appointment of the Governor, and the persons so appointed shall hold office until the next general election in case of Trustees elected by the people, and until the next election by the Alumni in case of Trustees elected by them. No Trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such. The Governor and Superintendent of Education shall each ex-officio be a member of each of said Board, and the Governor shall be ex-officio president of said Board.

Sec. 10. The General Assembly shall have no power to change the location of the State University or the Agricultural and Mechanical College as now established by law, except upon a request of a majority of their Trustees and by a vote of two-thirds of the members of the General Assembly taken by yeas and nays entered upon the journal.

Referred to Committee on Education.

Ordinance No. 108 by Mr. Jones (Montgomery):

An ordinance to amend Section 21 of Article VI.

Be it ordained by the people of Alabama in convention assembled, That Section 21 of Article VI of the Constitution be amended to read as follows:

Sec. 21. Registers in Chancery shall be elected by the qualified voters of the district and shall hold office for the term of six years, and no person shall be elected Register, or employed by him as clerk, unless he has been a resident citizen of the district for at least one year prior to his election or employment.

Referred to Judiciary Committee.

Ordinance No. 109, by Mr. Jones (Montgomery.)

An ordinance to amend Section 14 of Article V of the Constitution.

Be it ordained by the people of Alabama in convention assembled, that Section 14 be amended by adding after the last word in said section the following:

Whenever in any veto message the Governor shall propose the specific amendment or amendments which, if made would re-

move his objection, the house to which said veto is sent, instead of proceeding to consider whether the bill shall be passed over the veto, may adopt the amendment so recommended and send the bill to the other house, which may adopt said amendment, and both houses concurring in the amendment, the bill shall be sent again to the Governor; but if either house refuse to adopt the amendment or amendments so suggested it shall notify the other, and thereupon the house in which the bill originated shall proceed to reconsider, and such further Proceedings taken as required by Section 14 of this Article.

Referred to Committee on Executive Department.

Ordinance No. 110, by Mr. Jones (Montgomery.)

An ordinance to provide for the safe and productive use of surplus public funds in the treasury.

Be it ordained by the people of Alabama in convention assembled, That whenever there shall be in the Treasury of the State an amount of money more than sufficient for the present needs of the government, and which can be safely loaned out for any definite time, the Governor, Auditor and Treasurer, or the Governor and either the Auditor or the Treasurer, may loan out such suplus on call, or for such length of time, not exceeding six months, and at such rate of interest as they may deem advisable, upon the lender's depositing with the Treasurer of the State bonds of the United States or of the State of Alabama sufficient in value to cover the amount of such loan and the interest agreed to be paid thereon, and any expense which may be incurred in selling said bonds, if the loans are not paid at maturity. No such loans shall be made until at least two days public notice shall have been given by publication, in some newspaper published at the capital, of the terms on which the State desires to make the proposed loan; and if there is more than one application for the money, the bid or application most favorable to the State shall be accepted. A record of all such loans, and bids if any, shall be kept in the Treasurer's office and published in the Treasurer's report.

Referred to Committee on Banks and Banking.

Resolution No. 65, by Mr. Jones (Montgomery):

Resolved, That a special committee of nine be raised to take into consideration and report whether any, and if so, what, classes of public officers be allowed to use free passes, and under what circumstances; and whether any, and if so, what classes, of public officers should be permitted the benefit of special rates, and if so, to what extent; and what alteration or amendment is advisable in the scope of the present provision of the Constitution on the subject, or the mode of their enforcement.

Referred to Committee on Rules.

Resolution No. 66, by Mr. Jones (Montgomery):

Resolved, That provision should be made in the article on the Executive Department, constituting a Board of Arbitration for the arbitration and settlement of disputes between employers and employees.

Referred to Committee on Executive Department.

Resolution No. 67, by Mr. Jones (Montgomery):

First—That the fundamental principles of justice and free government are violated, when the benefits the citizen derives from money raised by taxation, are ascertained and measured according to the poverty or riches of the class or race to which he belongs, or the proportionate amount of taxes paid by such race or class.

Second—That it is not within the power of the State under the Constitution of the United States, to raise money by taxation for school purposes, and provide that the children of any race or class shall receive the benefit only of the amount of money derived from the taxes on the property of the race or class to which they belong.

Referred to Judiciary Committee.

MR. JONES (Montgomery)—I move that that be referred to the Committee on Judiciary.

THE PRESIDENT—The request is made and it will be so referred.

Ordinance No. 111 by Mr. Jones (Wilcox):

An ordinance to amend Article IX of the Constitution on Representation so as to read as follows:

REPRESENTATION.

1. The whole number of Senators shall be not less than one-fourth, or more than one-third, of the whole number of representatives.

2. The House of Representatives shall consist of not more than one hundred members.

3. It shall be the duty of the General Assembly, at its first session after the taking of the decennial census of the United States in the year 1910, and after each subsequent decennial census, to fix by law the number of Representatives and apportion them among the several counties of the State, according to the number of inhabitants in them respectively; provided that each county shall be entitled to at least one Representative.

4. It shall be the duty of the General Assembly at its first session after the taking of the decennial census of the United States in the year 1910, and

after each subsequent decennial census, to fix by law the number of Senators and to divide the State into as many Senatorial districts as there are Senators, which districts shall be as nearly equal to each other in the number of inhabitants as may be, and each shall be entitled to one Senator and no more; and which districts, when formed, shall not be changed until the next apportioning session of the General Assembly after the next decennial census of the United States shall have been taken. No county shall be divided between two districts and no district shall be made of two or more counties not contiguous to each other.

5. Should the decennial census of the United States, from any cause, not be taken, or if when taken, the same as to this State is not full and satisfactory, the General Assembly shall have power at its first session after the time shall have elapsed for the taking of said census, to provide for an enumeration of all the inhabitants of this State, and once in each ten years thereafter, upon which it shall be the duty of the General Assembly to make the apportionment of representatives and senators as provided in this article.

6. The apportionment of representatives among the several counties, until the next apportioning session of the General Assembly after the next decennial census of the United States shall have been taken, shall be as follows: The counties of Autauga, Baldwin, Bibb, Blount, Butler, Cherokee, Chilton, Choctaw, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, DeKalb, Elmore, Escambia, Etowah, Fayette, Franklin, Geneva, Greene, Lamar, Lawrence, Limestone, Macon, Marion, Marshall, Monroe, Pickens, Randolph, Shelby, St. Clair, Walker, Washington and Winston, shall have each one representative; the counties of Barbour, Bullock, Calhoun, Chambers, Clarke, Hale, Henry, Jackson, Lauderdale, Lee, Lowndes, Madison, Marengo, Morgan, Perry, Pike, Russell, Sumter, Talladega, Tallapoosa, Tuscaloosa and Wilcox shall each have two representatives; the counties of Dallas and Mobile shall each have three representatives; the County of Montgomery shall have four representatives; and the County of Jefferson shall have six representatives.

7. The Senatorial Districts, until the next apportioning session of the General Assembly, after the decennial census of the United States shall have been, shall be as follows: First District, Lauderdale and Limestone; Second District, Lawrence and Morgan; Third District, Winston, Blount and Cullman; Fourth District, Madison; Fifth District, Jackson and Marshall; Sixth District, St. Clair and Etowah; Seventh District, Calhoun and Cleburne; Eighth District, Talladega and Clay; Ninth District, Randolph and Chambers; Tenth District, Tallapoosa and Coosa; Eleventh District, Tuscaloosa; Twelfth District, Lamar, Fayette and Walker; Thirteenth District, Jefferson; Fourteenth District, Pickens and Sumter; Fifteenth District, Chilton, Shelby and Elmore; Sixteenth District, Autauga and Lowndes; Seventeenth District, Butler, Conecuh and Covington; Eighteenth District, Perry and Bibb; Nineteenth District, Clarke, Choctaw and Washington, Twentieth District, Marengo; Twenty-first District, Monroe, Escambia and Baldwin; Twenty-second District, Wilcox; Twenty-third District, Henry, Dale and Geneva; Twenty-fourth District, Barbour; Twenty-fifth District,

Pike, Coffee and Crenshaw; Twenty-sixth District, Macon and Bullock; Twenty-seventh District, Lee and Russell; Twenty-eighth District, Montgomery; Twenty-ninth District, DeKalb and Cherokee; Thirtieth District, Dallas; Thirty-first District, Colbert, Franklin and Marion; Thirty-second District, Greene and Hale; Thirty-third District, Mobile.

Referred to Committee on Representation.

Ordinance 112, by Mr. Kirk:

An ordinance to amend Sections 3, 5 and 9 of Article IV of the Constitution.

Section 3 shall be amended to read as follows:

Senators and Representatives shall be elected by the qualified electors on the first Monday in August, 1902, and every four years thereafter, unless the General Assembly shall change the time of holding elections. The terms of the office of Senators and Representatives shall be four years, commencing on the day after their election.

Section 5 shall be amended to read as follows:

The General Assembly shall meet in regular session at the Capitol, in the Senate Chamber and in the hall of the House of Representatives on the Tuesday after the second Monday in November, 1902, and every four years thereafter, or on such other day as may be prescribed by law, (except in cases of destruction of the Capitol, or epidemics, when the Governor may convene them at such place in the State as he may deem best), and shall continue in session not more than fifty days, and at said regular session it shall not consider any matter or law of a local character; and any local measure enacted at such regular session shall be void. On the day following the adjournment of the regular session, the General Assembly it shall assemble at the same place in special session and continue in session for a term not to exceed twenty days, and may at such session consider measures and laws of a local character.

That Section 9 be amended by striking out all of said section except the latter clause thereof, which section shall read as follows:

Whenever a vacancy shall occur in either House of the General Assembly, the Governor shall issue a writ of election to fill such vacancy for the remainder of the term.

Referred to Committee on Legislative Department.

Ordinance No. 113, by Mr. Kirkland:

To amend Section 2 of Article II of the Constitution of the State of Alabama.

Be it ordained by the people of the State of Alabama, in convention assembled, That Section 2 of Article II of the present Constitution be amended as follows:

Section 2. The boundaries of the several counties of this State, as heretofore established by law, are hereby ratified and confirmed. The General Assembly may, by a vote of two-thirds of both houses thereof, arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered except by a like vote; but no new counties shall be hereafter formed of less extent than five hundred square miles; and no existing county shall be reduced to less extent than five hundred square miles, and no new county shall be formed which does not contain sufficient number of inhabitants to entitle it to one Representative under the ratio of representation existing at the time of its formation, and leave the county or counties from which it is taken with the required number of inhabitants entitling such county or counties to separate representation.

Referred to Committee on State and County Boundaries.

Ordinance No. 114, by Mr. Kirkland:

To establish a Railroad Commission for the State of Alabama.

Be it ordained by the people of the State of Alabama, in convention assembled, That a commission known as the Railroad Commissioners of the State of Alabama, consisting of the President and two associates, who shall be competent persons, and who shall be elected by the people of the State of Alabama, is hereby established. Said Railroad Commission shall be elected for a term of four years, and shall not be eligible to succeed themselves. They shall be paid a salary to be fixed by law out of the State Treasury and shall be clothed with power to regulate and fix the freight and passenger tariffs on all railroads operating within the State of Alabama within all points within said State.

Referred to Committee on Corporations.

Ordinance No. 115, by Mr. Kirkland:

To amend Section 6 of Article IV of the present Constitution.

Be it ordained by the people of Alabama, in convention assembled, That Section 6 of Article IV of the present Constitution of the State of Alabama be amended so as to read as follows:

Section 6. The pay of members of the General Assembly shall be four dollars per day and three cents per mile in going to and returning from the seat of government, to be computed by the nearest usual route traveled; provided, that no member shall be paid mileage more than one time during any sitting of the General Assembly.

Referred to Committee on Legislative Department.

Ordinance No. 116, by Mr. Kirkland:

Relates to mileage to members of the General Assembly and others.

Be it ordained by the people in convention assembled, That members of the General Assembly, Presidential electors, witnesses before any court, and others who may be entitled to draw mileage, as compensation, in part, for their services shall be allowed the sum of three cents per mile each way, and no more, to be computed by the route most usually traveled.

Referred to Judiciary Committee.

Ordinance No. 117 by Mr. Kirkland:

To amend Section 5 of Article IV of the present Constitution of Alabama.

Be it ordained by the people of Alabama, in convention Assembled, That Section 5 of Article IV of the present Constitution be amended so as to read as follows:

Section. 5. The General Assembly shall meet every four years, at the Capitol, in the Senate Chamber and in the Hall of the House of Representatives, except in cases of destruction of the Capitol, or epidemics, when the Governor may convene them at such place in the State as he may deem best, on the day specified in this Constitution, or on such other days as may be prescribed by law; and shall not remain in session longer than sixty days at the first session under this Constitution, nor longer than fifty days at any subsequent sessions.

Referred to Committee on Legislative Department.

Ordinance No. 118, by Mr. Kirkland:

To amend Section 16 of Article V of the present constitution.

Be it ordained by the people of Alabama in convention assembled, That Section 16 of Article V of the present constitution of the State of Alabama be amended so as to read as follows:

Section 16. The President of the Senate and Speaker of the House of Representatives, shall, during the time they respectively administer the government, receive the same compensation which the Governor would have received if he had been employed in the duties of his office. Provided, that if the General Assembly shall be in session during the time they are administering the government, they, or either of them shall receive no compensation as members of the General Assembly while acting as Governor. And provided further, that the Governor, while the President or Speaker of the House of Representatives, or either of them is administering the government shall receive no compensation as Governor.

Referred to Committee on Executive Department.

Resolution No. 68, by Mr. Kirkland:

Be it resolved by the people of the State of Alabama, in convention assembled, That the General Assembly of Alabama shall have the power and it shall be their duty, to pass such laws, the violation of which, shall be punished by imprisonment in the penitentiary, as shall effectually prevent the business or profession of lobbying with the members thereof for any purpose.

Referred to Committee on Legislative Department.

Ordinance No. 119, by Mr. Locklin:

Relating to suffrage.

Be it ordained, etc., That the qualifications for electors in this State shall be the same as prescribed in Article VIII of the present constitution, except as hereinafter provided:

First—That each male citizen above the age of 21 years shall pay a poll tax of $2 per year, before he is entitled to register.

Second—That all registrations of voters for elections shall be completed at least six months in advance of such elections respectively.

Third—That no elector shall be registered who has not paid all poll taxes due by him, subsequent to the adoption of this constitution, up to a period of not less than twelve months preceding the elections at which he is registered to vote.

Fourth—That registration officers shall be furnished by the tax collectors with certified transcripts of the records of their offices showing who have paid poll taxes and upon what dates within a period of twelve months preceding the times prescribed by law for registration; and the General Assembly may prescribe other methods of proof of payment of such taxes.

Fifth—That it shall be optional with any citizen whether he pays poll taxes charged against him.

Sixth—That all poll taxes collected shall go to the support of public schools in the respective counties in which they are collected.

Seventh—That all poll taxes paid by white men shall go to the support of white schools only; and all paid by colored men to colored schools only.

Referred to Committee on Suffrage, and Elections.

MR. LOWE (Lauderdale)—Mr. President—I yield my call to Mr. Sanders of Limestone.

Resolution No. 69, by Mr. Sanders:

A resolution as to the sense of this convention touching suffrage reform in Alabama.

Resolved, First—That it is the sense of this convention that the suffrage reform demanded by the conditions prevailing in Alabama, and promised to the people of this State by this convention, can be best accomplished in the recognition of the principle involved in the exception clause, in the suffrage provisions of the constitution of the States of Louisiana and North Carolina.

Second—That in justice to the white race of the State, and in order to avoid the paralysis which would result in withdrawing from the youths of Alabama all stimulus to qualify themselves for the discharge of the privileges, duties and obligations of an elector, some limit should be fixed, at the expiration of which all white males in this State, thereafter to arrive at the voting age, shall possess the general qualifications which may be prescribed by this convention for the exercise of the elective franchise.

Referred to Committee on Suffrage and Elections.

Ordinance No. 120, by Mr. Macdonald:

To amend Section 7 of Article XI, of the Constitution of Alabama.—Refers to Municipal Corporations.

Be it ordained by the people of Alabama in Convention assembled, That Section 7 of Article XI, be amended so as to read as follows:

Sec. 7. No city, town or other municipal corporation other than provided for in this article, shall levy or collect a larger rate of taxation in any one year, on the property thereof, than one-half of 1 per centum of the value of such property as assessed for State taxation during the preceding year. Provided that for the payment of debts existing at the time of the ratification of the Constitution of Alabama in 1875, and the interest thereon, an additional rate up to 1 per centum may be collected, and the sum so collected shall be used solely in payment of such debts and interest and shall not be used by any municipality for any other purpose whatever.

Sec. 8. No city, town, or other municipal corporation shall have power to issue for any purpose except in renewal of the present bonded indebtedness of said city, town, or other municipal corporation, except on a vote of a majority of its voters at an election held solely for that purpose in accordance with an act of the Legislature authorizing such election. And no such city, town or other municipal corporation shall have power to issue bonds for any purpose save for refunding its bonded indebtedness existing at the time of the adoption of this Constitution when its outstanding bonds amount to 10 per centum of the value of its property as assessed for taxation.

Sec. 9. No city, town, or other municipal corporation shall have power to make, levy or collect any special or local assessment for streets or other local improvements on the property situated within its limits except in exact proportion to the benefit arising from such improvement to each separate piece of property. And no such assessment shall be made until the consent of the owners of a majority in value of the property upon which such assessment is proposed, is obtained. And no property shall be sold for the payment of such assessment, except under a decree of a court of competent jurisdiction, ascertaining the amount of such benefit, and the burden showing benefit shall be on the city, town, or other municipal corporation making the assessment. Provided, that no such assessment shall exceed 5 per centum of the taxable value of the property on which the same is levied, and no greater amount shall be collected in any one year than one-half of 1 per centum on the taxable value of said property.

Referred to Committee on Municipal Corporations.

Ordinance No. 121, by Mr. Macdonald:

Be it ordained by the people of Alabama in Convention assembled, That Section 3 of Article XIV, of the Constitution of Alabama be amended so as to read as follows:

Sec. 3. The General Assembly shall not remit the forfeiture of the charter of any corporation, nor shall the General Assembly alter or amend any charter, or pass any general or special law for the benefit of such corporation, other than in execution of a trust created by law, or by a contract, except on the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution. And in every case where the charter of any corporation shall be forfeited by a judgment of any court of this State, having jurisdiction of a proceeding for such forfeiture, it shall be the duty of any court with equity jurisdiction, within the county where such corporation shall have had its principal place of business on the petition of the plaintiff or petitioner in the proceeding wherein such forfeiture is declared, or by any citizen of this State, should such plaintiff or petitioner fail to make application therefor to such court, to appoint a receiver or receivers of all the property of such corporations who shall, under the direction of the court of his or their appointment, conduct and wind up the business of such corporation. Provided, that no officer or stockholder of the corporation, whose charter has been so forfeited, shall be appointed such receiver.

Referred to the Committee on Corporations.

Ordinance No. 122, by Mr. McMillan, (Wilcox):

Relates to the formation of new Constitution.

Be it ordained by the people of Alabama in Convention assembled, That no act of the General Assembly creating or forming new counties shall become a law until same shall have been submitted to the qualified voters residing within the boundaries of the county to be formed and must be approved by a majority of such electors voting on same, and such act shall specify the proposed boundaries.

Referred to Committee on State and County Boundaries.

Ordinance No. 123, by Mr. McMillan (Wilcox):

Relating to the removal of county sites.

Be it ordained by the people of Alabama in Convention assembled, That no act of the General Assembly changing the county site of any county shall become a law until the same shall have been submitted to the qualified voters of the county at an election, and approved by a majority of such electors voting on same, and such act shall specify the proposed new location.

Referred to Committee on State and County Boundaries.

Resolution No. 70, by Mr. Malone (Henry):

Fixing the time for holding the general election.

Be it resolved, That the general election shall be held on the first Tuesday in November of the even numbered years, unless the General Assembly shall change the time of holding elections.

Referred to Committee on Suffrage and Elections.

Ordinance No. 124, by Mr. Maxwell (Tallapoosa):

An ordinance to repeal Section 8 of Article XI of the Constitution of Alabama.

Be it ordained by the people of Alabama in Convention assembled.

That Section 8 of Article XI of the Constitution of Alabama be and the same is hereby repealed.

Referred to Committee on Taxation.

Ordinance No. 125, by Mr. Maxwell:

An ordinance to amend Section 1 of Article VII of the Constitution of Alabama.

Be it ordained by the people of Alabama in Convention assembled.

That Section 1 of Article VII be amended so as to include the Commissioner of Agriculture.

Referred to Committee on Impeachments.

Ordinance No. 126, by Mr. Maxwell:

To create the office of Lieutenant-Governor of Alabama and to define the qualifications and duties of such officer.

Be it ordained by the people of Alabama in Convention assembled, that the office of Lieutenant Governor is hereby created.

Section 1. The Lieutenant Governor shall be at least 30 years of age when elected, and shall have been a citizen of the United States ten years, and a resident of this State at least seven years next before the day of his election.

Sec. 2. The Lieutenant Governor shall be President of the Senate; and in case of the impeachment of the Governor, his removal from office, death, resignation, or refusal to qualify, absence from State or other disability, the Lieutenant Governor shall exercise all the power and authority appertaining to the office of Governor until the time appointed for the election of Governor shall arrive, or until the Governor who is absent or impeached, shall return or be acquitted, or other disability be removed.

Sec. 3. The Lieutenant Governor shall, during the time he administers the government receive the same compensation which the Governor would have received if he had been employed in the duties of his office; provided, that if the General Assembly be in session during such absence he shall receive no compensation as President of the Senate while acting as Governor.

Sec. 4. The pay of the Lieutenant-Governor shall be $—— per day, and ten cents per mile in going to and returning from the seat of government, to be computed by the nearest usual route travelled while engaged in discharging his duties as President of the Senate.

Referred to Committee on Executive Department.

Ordinance No. 127, by Mr. Maxwell:

To amend Section 8 of Article IV of the Constitution of Alabama.

Be it ordained by the people of Alabama in Convention assembled, that Section 8 of Article IV of the Constitution of Alabama be so amended as to read as follows:

The House of Representatives, at the beginning of each regular session, and at such other times as may be necessary shall elect one of its members as Speaker, who shall hold his office until his successor is elected and qualified.

Referred to Committee on Legislative Department.

Ordinance No. 128, by Mr. Merrill:

To declare the status of married women.

Be it ordained by the people of Alabama in Convention assembled: The legislature shall never create by law any distinction between the rights of men and women, to acquire, own, enjoy and dispose of property of all kind or the power to contract in reference thereto. Married women are hereby fully emancipated from all disability on account of coverture. But this shall not prevent the legislature from regulating contracts between husband and wife; nor shall the legislature be prevented from regulating the mortgaging or sale of homesteads.

Referred to Judiciary Committee.

Ordinance No. 129, by Mr. Miller (Wilcox):

To amend Section 8 of Article IV of the Constitution.

Election of President of the Senate and Speaker of the House, to amend Section 8 of Article IV of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, that Section 8 of Article IV of the Constitution be amended so as to read as follows:

The Senate, at the beginning of each regular session and at such other times as may be necessary shall elect one of its members President thereof; and the House of Representatives at the beginning of each regular session, "and at such other time as may be necessary," shall elect one of its members as Speaker; and the President of the Senate and the Speaker of the House of Representatives shall hold their offices respectively until their successors are elected and qualified. Each House shall choose its own officers and shall judge of the election returns and qualifications of its members.

Note.—The words in quotations constitute the new matter of the amendment and is put in to meet objections raised to present revenue bill because of the election of Speaker near close of the session.

Referred to the Committee on Legislative Department.

Mr. Moody yielded his turn to Mr. Ashcraft.

Ordinance No. 130, by Mr. Ashcraft:

To alter and amend Article XIII of the present Constitution relating to education.

Be it ordained by the people of the State of Alabama, in convention assembled, That Article XIII of the present Constitution of Alabama, relating to education, be amended so as to read as follows:

1. The General Assembly shall establish, organize and maintain a liberal system of public schools throughout the State for the equal benefit of the children thereof between the ages of seven and twenty-one years;

and such public schools shall be maintained for a period of not less than four scholastic months in each year.

2. Separate schools shall be provided for white and colored children, and it shall by the duty of the County Superintendent of Education in each county, by and with the advice and consent of the Court of County Commissioners, or body of like jurisdiction, to organize the white people of the county into white school districts, and the colored people of the county into colored school districts, according to their respective needs and advantages and without reference to each other as to territorial boundaries.

3. A trustee, or trustees, or Board of Education, as may be provided by law, shall be selected for white school districts from the white residents of such district and, for the colored school districts from the colored residents of such district; provided, no incorporated town or city maintaining a system of public schools as provided by law, shall be separated into districts without the consent of the Mayor and Board of Aldermen of such town or city.

4. For the purpose of building, enlarging, improving or furnishing school houses in any district, or for the purpose of supplementing the general school funds received from Federal, State, county, municipal and other sources, the Court of County Commissioners, or body of like jurisdiction, shall levy a special assessment of not more than one-half of one per centum upon the property of white persons situated in the district, if it be for the benefit of a white school district, or upon the property of colored persons situated in the district, if it be for the benefit of a colored school district; provided, no such levy shall be made unless the same be sanctioned by a majority of the votes cast at an election held for that purpose. At such election in a white school district, only qualified white voters shall be permitted to vote, and, in a colored school district only qualified colored electors shall be permitted to vote. It shall be the duty of the Probate Judge to order such election upon the petition of not less than one-fifth of the voters who will be entitled to vote at such election. The order for such election shall state the purposes for which it is proposed to make the assessment, the rate of the proposed assessment and the number of years during which such assessment is proposed to be made. Notice of such election shall be given and the election held in such manner as may be provided by law.

5. Every corporation owning property in this State shall, after the first day of October, and before the thirty-first day of December of each year, file with the Probate Judge in each county where it owns property, a complete list of its stockholders, showing the amount of stock held by each of them, and which of them are white and which are colored. When any property belonging to a corporation is situated in a white school district where a special assessment is to be made as herein provided, such assessment shall be levied upon such proportion of the value of such property as the amount of capital stock owned by white persons bears to the whole amount of capital stock. When such property is situated in a colored school district where such assessment is to be made, it shall be levied upon such proportion of the value thereof as the capital stock owned by colored persons bears to the whole capital stock. If such corporation fails to file such list of its stock-

holders, then the special assessments for the purposes herein provided may be made upon the whole value of such property for either or both white and colored districts.

6. The General Assembly shall provide for the levying and collection of an annual poll tax, not to exceed one dollar and fifty cents on each poll, which shall be applied to the support of the public schools in the school district in which it is levied and collected.

7. The principal of all funds arising from the sale or other disposition of lands or other property, which has been or may hereafter be granted or entrusted to this State, or given by the United States for educational purposes, shall be preserved inviolate and undiminished; and the income therefrom shall be faithfully applied to the specific objects of the original grants or appropriations.

8. All lands or other property given by individuals, or appropriated by the State for educational purposes, and all estates of deceased persons who die withoue a will or heir, shall be faithfully applied to the maintenance of the public schools.

9. The income arising from the sixteenth section trust fund and the surplus revenue fund until it is called for by the United States Government, with such other moneys, to be not less than three hundred thousand dollars per annum, as the General Assembly may provide by taxation or otherwise, shall be applied to the support and maintenance of the public schools, and it shall be the duty of the General Assembly to increase, from time to time, the school fund, as the condition of the treasury and the resources of the State will admit.

10. Not more than four per centum of all moneys raised, or which may hereafter be appropriated for the support of the public schools, shall be used or expended otherwise than for the payment of teachers employed in such schools; provided the General Assembly may, by a vote of two-thirds of each house, suspend the operation of this section.

11. The supervision of the public schools shall be vested in a State Superintendent and County Superintendent of Education, whose powers, duties, terms of office and compensation shall be fixed by law; and they shall be elected by the qualified voters of the State in such manner and at such times as shall be provided by law. No person shall be eligible to the office of State or County Superintendent of Education unless he possess the qualifications required by law of teachers holding first grade certificates in this State.

Referred to Committee on Education.

Ordinance No. 131, by Mr. Murphree:

Relates to duelling, concealed pistols and other deadly weapons.

Be it ordained by the people of Alabama in convention assembled, That

Section 47, Article IV of the Constitution of Alabama, be and is hereby amended so as to read as follows:

The General Assembly shall pass such penal laws as they may deem expedient to suppress the evil practice of duelling and carrying pistols and other deadly weapons concealed.

Ordinance No. 132, by Mr. Murphree:

On granting free passes by railroad companies.

Be it ordained by the people of Alabama in convention assembled, That,

Section 23, Article XIV, of the Constitution of Alabama, be amended so as to read as follows:

No railroad or other transportation company shall grant free passes, or sell tickets or passes at a discount other than as sold to the public generally, to any member of the General Assembly, or to any person holding office under this State or the United States. And any railroad official violating this section shall be deemed guilty of a misdemeanor and on conviction shall be fined $500 and confined in jail twenty days, and any of the officials named above who shall receive or use a free pass during his term of office shall forfeit his said office, and on conviction, shall be fined not exceeding $500 and not less than $1 and imprisoned in county jail not less than twenty days.

Referred to the Committee on Corporations.

Ordinance No. 133, by Mr. Murphree:

An ordinance for the regulation of railroad freights and passenger tariffs.

Be it ordained by the people of Alabama in convention assembled, That there shall be added to Article XIV of the Constitution of Alabama, the following sections:

Sec. 26. The power and authority of regulating railroad freight and passenger tariffs, and the location and building of passenger and freight depots, preventing unjust discriminations, and requiring reasonable and just rates of freight and passenger tariffs, are hereby conferred upon the General Assembly, whose duty it shall be to pass laws, from time to time, to regulate freight and passenger tariffs, to prohibit unjust discriminations on the various railroads of this State, and prohibit said roads from charging other than just and reasonable rates, and enforce the same by adequate penalties.

Sec 27. The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, nor alter or amend the same, nor pass any other general or special law for the benefit of said corporation except upon the condition that such corporation

shall thereafter hold its charter subject to the provisions of this constitution; and every amendment of any character of any corporation in this State, or any special law for its benefit, accepted thereby, shall operate as a novation of said charter, and shall bring the same under the provisions of this constitution; Provided, that this section shall not extend to any amendment for the purpose of allowing any existing road to take stock in or aid in the building of any branch road.

Sec. 28. The General Assembly of this State shall have no power to authorize any corporation to buy shares, or stock, in any corporation in this State, or elsewhere, or to make any contract, or agreement whatever, with any such corporation, which may have the effect, or be intended to have the effect, to defeat or lessen competition in their respective businesses, or to encourage monopoly; and all such contracts and agreements shall be illegal and void.

Sec. 29. No railroad company shall give or pay, any rebate, or bonus in the nature thereof, directly or indirectly, or do any act to mislead or deceive the public as to the real rates charged or received for freights or passage; and any such payments shall be illegal and void, and these prohibitions shall be enforced by suitable penalties.

Sec. 30. The General Assembly shall enforce the provisions of this article by appropriate legislation.

Sec. 31. Be it further ordained, That a Railroad Commission is hereby created, consisting of three male citizens of the State over the age of 25 years, whose duty it shall be to carry out the provisions of the Constitution, and laws relative to railroads and canals in this State. The term of office of said Commission shall be the same as that of the Governor and other State officers, unless otherwise fixed by the General Assembly. The salary of the Commissioners shall be fixed by law.

Sec. 32. The said Commissioners shall take an oath of office, to be framed by the Governor, and shall not jointly or severally, or in any way, be holders or owners of any railroad stock or bonds, or be the agent or employe of any railroad company or have any interest in any way in any railroad, during their term of office, and in case any Commissioner becomes disqualified in any way, he shall at once remove the disqualifications or resign, and on failure to do so, must be suspended by the Governor, who shall fill said vacancy by appointment, as well as all other vacancies that may occur from time to time, in said board.

Referred to the Committee on Corporations.

Ordinance No. 134, by same:

Be it ordained by the people of Alabama in Convention assembled, that,

Section 5, Article V, of the Constitution of Alabama be and is hereby amended so as to read as follows:

The Governor, Secretary of State, State Treasurer, State Auditor, Attorney General and three Railroad Commissioners, shall be elected at the first general election after the ratification of this Constitution and shall hold their respective offices for the term of four years from the time of their installation and until their successors shall be elected and qualified, and they shall not succeed themselves or be eligible to any other State office for four years after the expiration of the term for which they were elected; provided, however, that the term of office of the Railroad Commissioners may be changed by an act of the General Assembly.

Referred to Committee on Executive Department.

Ordinance No. 135, by Mr. NeSmith:

An ordinance to amend Article IV of the Constitution by adding thereto, the following:

Section The courts shall not enforce a legislative act unless there be record evidence, from the journals of the two Houses, that ever material requirement of the Constitution has been complied with; and in the absence of such record evidence the presumption of proper discharge by the legislature of its official duty shall not be indulged.

Referred to Committee on Legislative Department.

Ordinance No. 136, by Mr. Oates:

An Ordinance to amend Article II of the Constitution of the State by adding thereto another section as follows, to wit:

Be it ordained by the people of Alabama in Convention assembled, that

Sec. 3. No county site shall be changed or removed except by a two-thirds vote of the qualified electors of the County, voting at an election held for that purpose.

Referred to Committee on State and County Boundaries.

Ordinance No. 137, by Mr. Oates:

An ordinance to amend Article IV, Sections 1 and 2 of the Constitution.

Be it ordained by the people of Alabama in Convention assembled.

That Section 1 of Article IV of the Constitution be amended so as to read as follows, to wit:

1. The legislative power of the State shall be "Be it enacted by the legislature of Alabama" which shall not be repeated, but the act shall be divided into Sections for convenience, according to substance and designated merely by figures.

Referred to Committee on Legislative Department.

Ordinance No. 138, by Mr. Oates:

An ordinance to preserve the purity of the ballot and to prevent and punish frauds in elections.

Be it ordained by the people of Alabama in Convention assembled:

Section 1. Any person who shall give, or promise or offer to give, to any elector, any money, reward or any other valuable consideration for his vote at any election, or for withholding the same, or who shall give or promise to give such consideration to any person or party for such elector's vote, or for withholding thereof, and any elector who shall receive, for himself or for another, any money, reward or any other valuable consideration for his vote, at an election, or for withholding the same shall thereby forfeit the right to vote at any election during the next ten years, and any elector whose right to vote shall be challenged for such case before the election officers shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received; and anyone who swears falsely in regard thereto shall be guilty of perjury.

Sec. 2. Any person who shall, while a candidate for office, be guilty of bribery, fraud or willful violation of any election law, shall be forever disqualified from holding an office of trust or profit in this State; and any person convicted of willful violation of the election laws, shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely for a term of ten years. And the evidence given by anyone used as a witness against any one for violating any of the provisions of this or the preceding section shall not be used against such witness and any person found guilty of a wilful violation of the provisions of this or the preceding section shall be deemed guilty of felony.

Referred to Committee on Suffrage and Election.

Ordinance No. 139, by Mr. Oates:

An Ordinance:

Be it ordained by the people of Alabama in Convention assembled, That at the expiration of the term of office of the five chancellors now in office, there shall no longer be a separate Chancery Court in this State, and thereupon it shall be the duty of the General Assembly to provide by law for the judges of the Circuit Courts to have and exercise equity jurisdiction in all cases as

fully and completely as the said chancellors are now empowered to do; Provided, that the same general forms of pleadings in equity cases as are now provided for by law shall prevail and an equity docket of such causes be kept in said law courts and that the transfer to said law courts of all unfinished business be provided for by law.

Referred to Judiciary Committee.

Ordinance No. 140, by Mr. Oates:

An ordinance to authorize the governor to appoint, with the advice and consent of the Senate, the Attorney-General.

Be it ordained by the people of Alabama in Convention assembled, That the Governor, at the beginning of his term of office, shall, with the advice and consent of the Senate, appoint an Attorney General for the State, whose term of office shall be for the same length of time as that of the Governor, and who may be removed for cause at the instance of the Governor, by and with the advice and consent of the Senate; and in the event of the resignation, death or removal of the Attorney-General, the Governor shall, in like manner, appoint his successor for the unexpired term of such office.

Referred to the Committee on Executive Department.

Ordinance No. 141, by Mr. Oates (Montgomery):

An ordinance proposing certain prohibitions and restrictions upon the powers of the Legislature.

Be it ordained by the people of Alabama in Convention assembled.—Prohibitions.

Section 1. The Legislature shall not enact any law for one or more counties, not applicable to all of the counties in the State, increasing the uniform charge for the registration of deeds, or regulating cost and charges and fees of officers.

Sec. 2. The Legislature shall not authorize payment to any person of the salary of a deceased officer beyond the date of his death.

Sec. 3. The Legislature shall not retire any officer on pay, or part pay, or make any grant to such retiring officer.

Sec. 4. The Legislature shall never create by law any distinction between the rights of men and women to acquire, own, enjoy and dispose of property of all kinds, or their power to contract in reference thereto. Married women are hereby fully emancipated from all disabilities on account of coverture. But they shall not prevent the Legislature from regulating contracts between husband and wife, or preventing her from becoming his surety; nor shall the Legislature be prevented from regulating the sale

of homesteads, though the same shall not be mortgaged. Land belonging to, or under the control of the State shall never be donated directly, or indirectly, to private corporations or individuals or to railroad companies. Nor shall such land be sold to corporations or associations for a less price than that for which it is subject for sale to individuals. This, however, shall not prevent the Legislature from granting right-of-way, not exceeding one hundred feet in width, as a mere easement, to railroads to cross State land, and the Legislature shall never dispose of land covered by said right-of-way so long as such easement exists.

Sec. 5. The Legislature shall never grant extra compensation, fee, or allowance, to any public officer, agent, servant or contractor, after service rendered, or contract made; nor authorize payment, or part payment, of any claim under any contract, not authorized by law; but appropriations may be made for expenditures in repelling invasions, preventing or suppressing insurrections. The Legislature shall have no power to devise any remedy which may have become barred by lapse of time, or by any statute of limitation of his State.

Sec. 6. No lottery shall ever be allowed, or be advertised, by newspapers or otherwise, or its tickets be sold in this State; and the Legislature shall provide by law for the enforcement of this provision; nor shall any lottery heretofore authorized be permitted to be drawn or its ticket sold. The Legislature shall not elect any other than its own officers, and United States Senators; but this section shall not prohibit the Legislature from appointing Presidential Electors.

Sec. 7. No obligation or liability of any person, association, or corporation held or owned by this State, or levee board, or any county, city, or town thereof, shall ever be remitted, released or postponed, or in any way diminished by the Legislature, nor shall any liability or obligation be extinguished except by payment thereof into the proper treasury; nor shall such liability, or obligation be exchanged or transferred except upon payment of its face value; but this shall not be construed to prevent the Legislature from providing by general law for the compromise of doubtful claims.

Referred to the Legislative Department Committee.

Ordinance No. 142, by Mr. Oates:

Be it ordained by the people of Alabama in convention assembled, That the following restrictions and limitations upon the powers of legislation, to wit:

Section 1. No special or local law shall be enacted for the benefit of individuals or corporations, in cases which are, or can be provided by a general law, or where the relief sought can be given by any court of this State; nor shall the operation of any

general law be suspended by the legislature for the benefit of any individual or private corporation or association, and in all cases where a general law can be made applicable, and would be advantageous, no special law shall be enacted.

Sec. 2. The legislature shall pass general laws, under which local and private interests shall be provided for and protected, and under which cities and towns may be chartered and their charters amended, and under which corporations may be created, organized, and their acts of incorporation altered; and all such laws shall be subject to repeal or amendment.

Sec. 3. There shall be appointed in each house of the legislature a standing Committee on Local and Private Legislation; the House Committee to consist of seven representatives, and the Senate Committee of five Senators. No local or private bill shall be passed by either house until it shall have been referred to said committee thereof, and shall have been reported back with recommendation in writing that it do pass, stating affirmatively the reasons therefor, and why the end to be accomplished should not be reached by a general law, or by proceeding in court, or if the recommendation of the committee be that the bill do not pass, then it shall not pass the House to which it is so reported unless it be voted for by a majority of all the members elected thereto. If a bill is passed in conformity to the requirements hereof, other than such as are prohibited in the next section, the courts shall not, because of its local, special or private nature refuse to enforce it.

Sec. 4. The legislature shall not pass local, private or special laws in any of the following enumerated cases, but such matters shall be provided for only by general laws, viz:

(a) Granting divorces.

(b) Changing the names of persons, places or corporations.

(c) Providing for changes of venue in civil and criminal cases.

(d) Regulating the rate of interest on money.

(e) Concerning the settlement or administration of any estate, or the sale or mortgage of any property, of any infant, or of a person of unsound mind, or of any deceased person.

(f) The removal of the disability of infancy.

(g) Granting to any person, corporation, or association, the right to have any ferry, bridge, road or fish-trap.

(h) Exemption of property from taxation, or from levy or sale.

(i) Providing for the adoption or legitimation of children.

(j) Changing the law of descent and distribution.

(k) Exempting any person from jury, road, or other civil duty (and no person shall be exempted therefrom by force of any local or private law.)

(l) Laying out, opening, altering and working roads and highways.

(m) Vacating any road or highway, town plat, street, alley or public grounds.

(n) Selecting, drawing, summoning or empannelling grand or petit juries.

(o) Creating, increasing, or decreasing the fees, salary or emoluments of any public officer.

(p) Providing for the management or support of any private or common school, incorporating the same, or granting such school any privileges.

(q) Relating to stock laws, water courses and fences.

(r) Conferring the power to exercise the right of eminent domain or granting to any person, corporation or association the right to lay down railroad tracks, or street car tracks, in any other manner than that prescribed by general law.

(s) Regulating the practice in courts of justices.

(t) Providing for the creation of districts for the election of justices of the peace and constables.

(u) Granting any lands under control of the State to any person or corporation.

Referred to Committee on Legislative Department.

Ordinance No. 143, by Mr. O'Neal:

Prohibiting the grant by any county, city, town or other municipality of any franchise or privilege; or the making of any contract in reference thereto, for a term exceeding twenty years, and requiring such grants to be made at public auction to the highest bidder.

Be it ordained by the people of the State of Alabama, in convention assembled, That the following provisions shall constitute Section —— of Article XIV of the Constitution of this State:

No county, city, town or other municipality shall be authorized or permitted to grant any franchise or privilege, or make any contract in reference thereto, for a term exceeding twenty years. Before granting such franchise or privilege for a term of years, such county, city, town or other municipality shall first, after due advertisement, receive bids therefor publicly, and award the same

to the highest bidder; but it shall have the right to reject any or all bids. This section shall not apply to a trunk railway.

Referred to Committee on Municipal Corporation.

Ordinance 144, by Mr. O'Neal (Lauderdale):

To amend Section 5 of Article XI of the Constitution of Alabama.

Be it ordained by the people of the State of Alabama, in convention assembled, That Section 5 of Article XI of the Constitution of Alabama be amended so as to read as follows:

Article XI—Section 5. No county in the State shall be authorized to levy a larger rate of taxation, in any one year, on the value of the taxable property therein than one-half of one per centum; provided, that to pay debts existing on the 6th day of December, 1875, an additional rate of one-fourth of one per centum may be levied and collected, which shall be exclusively appropriated to the payment of such debt or the interest thereon; provided, further, that to pay any debt or liability now existing against any county incurred for the erection of the necessary public buildings or other ordinary county purposes, or that may hereafter be created for the erection of the necessary public buildings or bridges or the establishment or improvement of public roads, any county may levy and collect such special taxes as may have been or may hereafter be authorized by law, which taxes so levied and collected shall be applied exclusively to the purposes for which the same shall have been levied and collected; provided, further, that no special tax for the establishment or improvement of public roads shall exceed the rate of one-tenth of one percentum on the value of the taxable property therein in any one year or shall be levied and collected until authorized by a majority of the legally qualified voters of the county at an election held for such purpose.

Referred to Committee on Taxation.

Ordinance No. 145, by Mr. O'Neal (Lauderdale):

To amend Section 5 of Article XI of the Constitution of Alabama.

Be it ordained by the people of Alabama, in convention assembled, That Section 5 of Article XI of the Constitution of Alabama be amended so as to read as follows:

After the ratification of this Constitution, no new debt shall be created against or incurred by this State or its authority, except to repel invasion or suppress insurrection, and then only by concurrence of two-thirds of the members of each house of the General Assembly, and the vote shall be taken by yeas and nays and entered on the journal; and any act creating or incurring any new debt against this State, except as herein provided for, shall

be absolutely void; provided, the Governor may be authorized to negotiate temporary loans, never to exceed one hundred thousand dollars, to meet deficiencies in the treasury and until the same is paid, no new loan shall be negotiated; provided, further, that this section shall not be so construed as to prevent the issuance of renewal bonds to refund the existing State indebtedness, but such bonds shall not bear a rate of interest exceeding four per cent per annum, payable semi-annually.

Referred to Committee on Taxation.

Resolution No. 17, by Mr. O'Neal (Lauderdale):

To adopt the present Constitution of the State of Alabama by this Convention, subject to such revision and amendments in any article, section, or part thereof, as this convention may hereafter determine.

That whereas, The act of the General Assembly of Alabama which provided for the holding of this convention declares that this convention shall continue in session until it shall by careful revisions and amendments of the present constitution, frame and adopt a revised Constitution for this State.

Therefore, be it resolved, That the present Constitution of the State of Alabama be and the same is hereby adopted by this convention as the Constitution of the State of Alabama, subject only to be revised, amended or altered in any article, section, clause or part thereof.

Referred to Committee on Rules.

Ordinance No. 146, by Mr. O'Neill;

Be it ordained by the people of Alabama in Convention assembled that Article XIII of the Constitution on Education be amended by striking out the whole section 11 and inserting in lieu thereof the following:

Section 11. No County or city in Alabama will be granted special privileges in collection of State, liquor or other licenses to be used by said County or city for school purposes without first submitting it to the qualified voters of Alabama for ratification or rejection.

Referred to Committee on Education.

MR. BROWNE—I have a resolution I desire to offer. I ask unanimous consent that the resolution may be read and I move to suspend the rules and pass the resolution.

Resolution No. 72 was read as follows:

Be it resolved that upon the request of the Chairman of any Committee having no clerk, the Chairman of any Committee hav-

ing a clerk may direct the clerk of his Committee to serve such first named Committee, when not engaged with the Committee to which he has been assigned.

A vote being taken the rules were suspended, and a further vote being taken the resolution was adopted.

Mr. Palmer yielded his place to Mr. Williams (Marengo.)

Ordinance No. 147, by Mr. Williams (Marengo):

An ordinance to regulate the power of corporations to engage in business.

Be it ordained by the people of Alabama in Convention assembled, that no municipal, public or private corporation or other corporation; that no County or other quasi corporation shall engage in any business unless and except, any and all persons, firms, partnerships, limited partnerships and corporations shall have the right to engage in the same business under the same terms, conditions and limitations, and entitled to the same immunities and privileges.

Referred to Committee on Corporations.

Ordinance No. 148, by Mr. Williams (Marengo):

To forbid the State of Alabama from engaging in certain businesses.

Be it ordained by the people of the State of Alabama in Convention assembled. That the State of Alabama shall not engage in any business unless any or all persons, firms, partnerships, limited partnerships, and all corporations are also permitted to engage in the same business under the same terms, conditions and limitations and entitled to the same immunities and privileges.

Referred to Judiciary Committee.

Ordinance No. 149, by Mr. Williams (Marengo):

To provide for jury trials in certain cases.

1. Be it ordained by the Convention, that in civil causes a trial by jury shall be had in such cases, only, as a jury is demanded at such time as may be fixed by the legislature.

2. Be it further ordained, That in criminal and quasi criminal cases the trial by jury shall remain inviolate.

3. Be it further ordained, That the entire jury must agree to any verdict.

Referred to Judiciary Committee.

Resolution No. 73, by Mr. Williams (Marengo):

Be it resolved that when this Convention adjourn on Friday, such adjournment shall be to Monday.

Referred to Committee on Rules.

MR. OATES—I would like to inquire of the delegate from Marengo what is the necessity for this. I, being here at home, am not inconvenienced either by working that day or having no session; but if there be necessity to accommodate other gentlemen, I will willingly vote for it, but will not unless there is some good reason.

MR. WILLIAMS (Marengo)—The resolution was introduced at the request of several delegates who wanted to go home tomorrow. If the wording of the resolution makes it appear that it means every Friday, I did not intend it. I simply intended it for tomorrow and my understanding was that the resolution would go to the Committee on Rules and not be put on its passage now, but the Committee on Rules can report on it tomorrow.

THE PRESIDENT—If there is no objection the Chair will refer the resolution to the Committee on Rules.

Ordinance No. 150, by Mr. Parker (Cullman):

An ordinance to amend Article II. of the Constitution by adding Section 3 thereto.

Be it ordained by the people of Alabama in Convention assembled, That Article II. of the Constitution be, and the same is hereby amended, by adding the following section thereto:

Sec. 3. No county site shall be changed or removed, except by a two-thirds vote of the qualified voters of the county, voting at an election held for that purpose.

Referred to Committee on State and County Boundaries.

Resolution No. 74 by Mr. Parker (Cullman):

To provide for a Clerk of the Committee on Local Legislation.

Resolved, That the Chairman of the Committee on Local Legislation be authorized to employ a Clerk for said Committee, said Clerk to receive the same fees as clerks of other committees of this Convention.

Referred to the Committee on Rules.

Ordinance No. 151, by Mr. Pearce (Marion):

An ordinance to amend Section 4 of Article XI. of the present Constitution.

Be it ordained by the people of Alabama in Convention assembled, That Section 4 of Article XI. of the present Constitution be amended as follows, by striking out the words "three-fourths

of 1 per centum" and in lieu thereof insert the words "five-eighths of 1 per centum."

Referred to Committee on Taxation.

MR. PETTUS—In offering this ordinance, I would state that my construction of the Federal Constitution is that any State has a right to discriminate against the negro as a race provided the State is willing to incur the penalty provided in the Fourteenth and Fifteenth Amendments.

Ordinance No. 152, by Mr. Pettus:

To disfranchise negroes and persons of African descent in Alabama.

Be it ordained by the people of Alabama in Convention assembled, That no negro, black man, or person of African descent shall be allowed to vote in any Federal, State, county or municipal election in the State of Alabama.

Referred to the Committee on Suffrage and Election.

Resolution No. 75, by Mr. Parker (Elmore):

Whereas, The General Assembly passed an act, approved March 4th, 1901, entitled "An Act to provide for the annexation of West Florida to the State of Alabama," with the consent of the State of Florida and the Congress of the United States, and,

Whereas, The Governor of Alabama has, in pursuance of said act, appointed as commissioners on the part of Alabama, Hons. Wm. L. Martin, Richard C. Jones and Samuel Blackwell, to confer with a like commission on the part of the State of Florida, which commission is empowered to do and perform all acts necessary and requisite to perfect an agreement for the cession of said territory to the State of Alabama, to be ratified and confirmed by the Legislature of Alabama, and approved by the Governor, Now, therefore, be it

Resolved, That this Convention hereby ratify and endorse the purposes of said act, and the appointment of said commission.

Resolved further, That we approve of the annexation of the territory described in said act, to the State of Alabama in the manner set forth therein.

Resolved further, That we commend the distinguished commission on the part of Alabama to a painstaking and patriotic effort in consummating liberal terms for the cession of said territory and recommend such other action by the Legislature of Alabama, and the Congress of the United States as may be necessary.

Referred to the Committee on State and County Boundaries.

Ordinance No. 153, by Mr. Pillans:

To amend Article VI of the Constitution of Alabama (relating to the Judicial establishment).

Section 1. Be it ordained by the people of Alabama in convention assembled, That Section 1 of Article VI of the Constitution be and is amended so as to read as follows:

The judicial power of the State shall be vested in the Senate sitting as a court of impeachment, a Supreme Court, Circuit Courts, Courts of Probate and such inferior courts as the General Assembly may from time to time establish.

Sec. 2. Be it further ordained, That the proviso contained in Section 6 of said Article VI be and is repealed and stricken out, and that Sections 7, 8, 21 and 26 thereof be repealed.

Sec. 3. Be it further ordained, That all other parts of said Article VI which provide for or relate to the establishment of chancery courts or registers in chancery be and the same are stricken out and repealed.

Sec. 4. Be it further ordained, That Section 4 of said Article VI be amended so as to read as follows: The State shall be divided by the General Assembly into convenient circuits, and no circuit shall contain more than five counties, and for each circuit there shall be chosen a judge, who shall be learned in the law, and who shall for one year next preceeding his election and during his continuance in office reside in such circuit.

Referred to Judiciary Committee.

Ordinance No. 154 by Mr. Pillans:

To amend Article V, Section 12 of the Constitution of Alabama. (Relating to pardons.)

Be it ordained by the people of Alabama in convention assembled, That Section 12 of Article V be amended so as to read as follows:

The Governor shall have power to remit fines and forfeitures, under such rules and regulations as may be prescribed by law, and after convictions to grant reprieves, commutations or sentences and pardons, but no pardon shall be granted or sentence commuted except upon the recommendation in writing of the secretary of State, Attorney General, and State Treasurer, or any two of them, after full hearing in open session upon due public notice.

(Adopted from Pennsylvania Constitution.)

Referred to Committee on Executive Department.

Resolution No. 76, by Mr. Proctor:

Resolved, That the reading each day of the journal of this convention be dispensed with unless the same is demanded by the convention.

Referred to Committee on Rules.

Resolution No. 77, by Mr. Proctor:

Resolved, That the Committee on the Journal shall be entitled to a clerk, to be appointed by the chairman who shall receive the same per diem as clerks of the other committee.

Resolved further, That said clerk shall, when not engaged with said committee, serve any other committee that may need a clerk, or serve the secretary of this convention when so required by him.

Referred to Committee on Rules.

Ordinance No. 155, by Mr. Reese.

An ordinance to provide for the election of officers discharging the duties of Railroad Commissioners and Convict Inspectors.

Article ——.

Section —. Be it ordained by the people of Alabama in convention assembled, that all officers charged with the duties now discharged by the Railroad Commissioners and Convict Inspectors, by whatever named called, shall hereafter be elected by the people in the same manner as may be provided by law, for the election of Governor, provided that the General Assembly shall have power to change the name and number and duties of said officers.

Referred to Committee on Corporations.

Ordinance No. 156, by Mr. Reese.

An ordinance to be embodied in Article V of the Constitution.

Be it ordained by the people of Alabama in convention assembled that Article V (Executive Department) be amended by adding the following section.

Section —. It shall be the duty of the State Treasurer within ten days after the first day of January and July of each year, to publish a statement under oath, in some newspaper published at the seat of government, showing the condition of the treasury of said day, the balance on hand and in what funds, together with a certificate of the Governor that he has actually verified the count of the funds in the treasury and found the balance stated by the Treasurer actually in the vaults of the treasury or as the truth may be. And it shall be the duty of the Governor at such other times as he may deem proper, to go to the Treasury without giving any notice or warning to the Treasurer or any other person, and verify the cash balance as shown by the books and to publish the

fact that he has done so, and whether the amount called for by the books be actually in the Treasury and stating whether the Treasurer or any other person had any notice whatever that such verification would be made.

Referred to Committee on Executive Department.

Resolution No. 78, by same:

Resolved. That the Committee on Judiciary Department be and are hereby instructed to investigate and report to this Convention what constitutional provisions are necessary or expedient for the reform in judicial administration by the Justice of the Peace system and whether the same should be abolished or modified.

Referred to the Judiciary Committee.

Resolution No. 79, by same:

Resolved, That the Committee on Judicial Department are hereby instructed to embody in its report a provision fixing the salaries of Justices of the Supreme Court at such sum, (not less than $5,000 per annum) as will enable the State to obtain its best legal talent for this important tribunal.

Referred to Judiciary Committee.

Resolution No. 80, by same:

Resolved. That Rule 27 be and is hereby amended as follows, by adding at the end thereof the following words:

"Provided, That any vote taken on the last day of the session of this convention may be reconsidered on the same day.

Referred to Committee on Rules.

Mr. Reynolds (Chilton), yielded his turn to Mr. Watts.

Ordinance No. 157, by Mr. Watts:

Be it ordained that Sections 1 and 2, Article VI be amended as follows:

Section 1. The judicial power of the State shall be vested in the Senate, sitting as a court of impeachment, an appellate equity court, a supreme court, circuit courts, chancery courts, courts of probate and inferior courts of law and equity, to consist of not more than five members as the General Assembly may from time to time establish, and such persons as may be by law invested with the powers of a judicial nature; provided, that no new inferior court for the State or any sub-division thereof shall be established except by a vote of two-thirds of the members elected to each House a vote to be taken by yeas and nays and spread upon the journals and in all counties where the population, according to

the census of 1900 is less than thirty-five thousand, the Courts now in existence other than circuit, chancery, probate, municipal and justice courts shall have no existence after the terms of the incumbents respectively, expire.

Sec. 2. The Supreme Court shall consist of three members. At the general election in 1904, the three judges thereof shall be elected, one for a term of four years, one for a term of eight years, and one for a term of twelve years, and every four years after 1904, one of said judges shall be elected, whose term of office shall be twelve years. Said court, except in cases otherwise provided by this Constitution, shall have appellate jurisdiction only from all inferior courts exercising civil (not equity) or criminal jurisdiction, which appellate jurisdiction shall be co-extensive with the State under such restrictions and regulations not repugnant to this Constitution as may be from time to time prescribed by law, provided that no appeal shall lie to said Supreme Court from any inferior court, except the appellate court, except from a final judgment disposing of the case. Said Supreme Court shall have jurisdiction of all appeals from the appellate equity court where the construction of any provision of this Constitution or any statute is involved.

The following shall be Section 3 of Article VI:

Sec. 3. The appellate equity court shall consist of three members. At the general election held in 1904 the three judges thereof shall be elected, one for four years, one for eight years, and one for twelve years, and every four years after 1904, one of said judges shall be elected whose term of office shall be twelve years. Said court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only from all inferior courts having equity jurisdiction, which appellate jurisdiction shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this Constitution as may from time to time be prescribed by law, provided that except in cases where an injunction or other remedial writ has been granted or refused, and in cases where a receiver has been appointed or refused, no appeal shall lie to said appellate court except from the decree ending the case.

Sec. 4. The Supreme Court and appellate equity court shall be held at the seat of government, but if that shall have become dangerous from any cause, said courts may each adjourn to a different place.

Referred to Judiciary Committee.

Ordinance No. 158, by Mr. Watts:

To amend Sections 12, 13, 15, 25 and 26 of Article V.

Be it ordained, That Section 12, Article V. shall be amended so as to read as follows:

"Sec. 12. The Governor, Secretary of State and Attorney General are hereby constituted a board, and said board or majority thereof, when in session, shall have power, under such rules and regulations as may be prescribed by law, and after conviction to grant reprieves, commutations of sentence and pardons, excepting cases of treason, and to remit fines and forfeitures, but pardons and cases of murder, arson, burglary, rape, assault with intent to commit rape, perjury, forgery, bribery, larceny and impeachment shall not relieve from civil and political disabilities, unless specifically expressed in the pardon afterwards granted. Said board may also grant paroles under such regulations as may be prescribed by law. Upon conviction of treason said board may suspend the execution of the sentence and report the same to the General Assembly at its next regular session, when the General Assembly shall either pardon, commute sentence, direct its execution, or grant further reprieve. Said board shall communicate to the General Assembly at every regular session each case of reprieve, commutation of sentence, and pardon granted, and fine and forfeiture remitted with its reasons therefor, stating the name and crime of the convict, the sentence, its date and the date and nature of reprieve, commutation or sentence."

Add to Section 13, Article V., at the end thereof the following:

Every bill passed within the past two days before the final adjournment, if approved by the Governor within five days after final adjournment, shall be a law."

Section 15, Article V. shall be amended so as to read as follows:

"Sec. 15. If any person elected Governor shall die or resign before he is inaugurated, or for any reason fails to qualify as Governor, the person elected by the Senate as its President after said person so failing or refusing to qualify as Governor was elected, and holding the office of President of the Senate at the time fixed for the inauguration of the Governor shall exercise all the powers and authority of Governor, and be entitled to the honors and emoluments of Governor; in case of the death or resignation as aforesaid of the person elected Governor, until some one, who has been elected Governor as provided by law, shall become entitled to the office of Governor, and in case of the failure or refusal for any reason of the person elected Governor to qualify; and in case of the impeachment of the Governor, his removal from office, death, resignation, absence from the State or other disability or inability, after inauguration, the President of the Senate shall exercise all the power and authority appertaining to the office of Governor and be entitled to the honors and emoluments thereof, until, in the case of removal from office, death, or resignation of the Governor, some one who has been elected Governor, as provided by law, shall become entitled to the office of Governor, and, in case of the impeachment, absence from the State, or other dis-

ability or inability of the Governor until such time as the Governor returns, shall be acquitted, or his disability or inability is removed; and if, during any such vacancy in the office of Governor, the President of the Senate, as aforesaid, shall be impeached, removed from office, refuse to qualify, die, resign, be absent from the State or be under other disability or inability, the Speaker of the House of Representatives shall in like manner administer the government. If the Governor shall be absent from the State for over twenty days, the Secretary of State shall notify the President of the Senate, who shall enter upon and discharge the duties of Governor until the return of the Governor, and if the Governor and President of the Senate shall both be absent from the State for over twenty days, the Secretary of State shall notify the Speaker of the House of Representatives, who shall enter upon and discharge the duties of the Governor or President of the Senate."

Section 25, Article V. shall be amended by striking out the words, "After the expiration of the term of those now in office."

Section 26, Article V. shall be amended so as to read as follows:

"Sec. 26. In 1904, and every four years thereafter, a sheriff shall be elected in each county by the qualified electors thereof, who shall hold his office for the term of four years, unless sooner removed and shall be ineligible to any county office for one year after ceasing to be sheriff. Vacancies in the office of sheriff shall be filled as in other cases and the persons appointed shall fill out the unexpired term."

Referred to Committee on Executive Department.

MR. FERGUSON—I desire to correct an error in the stenographic report of the proceedings of yesterday. In reporting a resolution that I had the honor to offer the stenographic report reads "That inability to read and write shall not be a test of good citizenship," whereas the resolution read and still reads "is not a test of bad citizenship."

THE PRESIDENT—The resolution is correct on the journal.

Ordinance No. 159, by Mr. Watts:

To amend Sections 13, 15, 17, 27, 31, 39, 52 and 56, Article IV.

Be it ordained that Section 13, Article IV, shall read as follows: "Section 13. Each house shall keep a journal showing all its proceedings, including the vote upon every measure acted upon, said vote to be shown by the names of those voting, and how each voted when a yea and nay vote is required, and including a statement whether or not the required notice had been given in the case of local bills passed. Each house shall cause its journal to be published immediately after the adjournment of said house, except such parts of said journal as in the judgment of said house

may require secrecy, and the yeas and nays of members of either house on any question shall, at the desire of one-tenth of the members present, be entered on the journal. Any member of either house shall have liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have his reasons entered on the journal."

That Section 15, Article IV, shall read as follows: "Section 15. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy, but no one except, members, officers, and employes of the Senate and House of Representatives, State officers, and messengers from the Governor shall be permitted on the floor of either house while in session, except by a majority vote of said house adopted separately for each occasion when any other person shall be so permitted, and lobbying on the floor of either house must be by law prohibited."

Section 17, Article IV, shall be amended so as to read as follows:

"Section 17. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil or military office of profit under this State or sub-division thereof, which offices shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by election by the people."

Section 27, Article IV shall be amended so as to read as follows:

"Section 27. The presiding officer of each house, or in case of his absence or inamility, the person actually presiding, shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the General Assembly, after the titles have been publicly read immediately before signing and the fact of signing shall be entered on the journal.

Section 31, Article IV, shall be amended so as to read as follows:

"Section 31. All bills for raising or regulating revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other bills and no appropriation or revenue bill shall be passed during the last five days of the session."

Section 39, Article IV, shall be so amended so as to read as follows:

"Section 39. No act of the General Assembly changing the seat of government of the State shall become a law until the same shall have been submitted to the qualified electors of the State at a general election and approved by a majority of the qualified voters of the State."

Section 52, Article IV, shall be amended by striking out the last clause thereof, commencing "Nor such property, real or personal."

Section 56, Article IV, shall be amended so as to read as follows:

"Section 56. There can be no law impairing the obligation of contracts by destroying or impairing the remedy of their enforcement or otherwise, and the General Assembly shall have no power to revise any right or remedy which may have become barred by lapse of time or by any statute of this State."

Section —. No motion to reconsider shall be disposed of adversely on the day the original vote was taken, except on the last day of the session.

Referred to Committee on Legislative Department.

Ordinance No. 160, by Mr. Robinson:

An ordinance to amend Section 32 Article IV, of the Constitution of Alabama:

Be it ordained, that Section 32, Article IV of the Constitution of Alabama be amended by adding at the end of said Section, the following words:

"And no special appropriation exceeding $500 shall be made, except by a vote of two-thirds of each House.

Referred to Committee on Legislative Department.

Ordinance No. 161, by same:

An Ordinance to amend Section 6, Article XIII of the Constitution of Alabama.

Be it ordained that Section 6, Article XIII of the Constitution of Alabama be amended so as to read as follows:

6. All money raised, or which may hereafter be appropriated, for support of the public schools, shall be used and expended for the payment of teachers employed in such schools, except for the compensation of the school officers in the County. And no incidental or other fee shall be required of any child before entrance into such public schools in excess of 50 cents for each child in any one scholastic year.

Referred to Committee on Education.

MR. ROGERS (Sumter)—I have a resolution. I ask unanimous consent to its reading and I move that the rules be suspended and that it be put on its passage immediately.

The resolution was read as follows:

Resolved, that it is the sense of this Convention, that any further reference by "resolution" to the ante-election pledges of the Democratic platform," is not only unnecessary but is bad taste. The people of Alabama expect as a matter of course, that the Democratic party will now, as heretofore, keep its promises to them.

A vote being taken the rules were suspended.

MR. VAUGHAN—All resolutions similar to that are out on reference to committees and can they be considered now?

THE PRESIDENT—They can be offered as amendments to this.

MR. REESE—I move that the resolution be referred to the Committee on Rules.

MR. deGRAFFENREID — The gentleman is out of order. The rules are suspended and the resolution is before the House for adoption or objection.

MR. REESE—Under the rules of the House, a motion to commit can be made at any time.

THE PRESIDENT—The Chair is of the opinion that notwithstanding the rules have been suspended and the resolution is before the House for consideration, nevertheless a motion to refer to a proper Committee would be in order.

MR. ROGERS (Sumter)—I move to lay the motion to refer on the table.

A vote being taken the motion to refer was tabled.

MR. REESE—I move that the consideration of this matter be indefinitely postponed.

MR. ROGERS (Sumter)—And I move to lay that motion on the table.

MR. REESE—And on that I demand the ayes and noes.

THE PRESIDENT—Is the call for the ayes and noes sustained.

No second for the motion being forthcoming the President declared the call not sustained and a vote being taken on the motion to table the motion to indefinitely postpone the same was carried.

THE PRESIDENT—The question is on the adoption of the resolution of the gentleman from Sumter.

MR. O'NEAL—I move to amend the last clause by striking out the word "do" and inserting the word "will."

MR. ROGERS (Sumter)—I accept the amendment.

MR. REESE—I object to the amendment and make the point of order that the question is before the House, is the property of the House, and cannot be amended without the consent of the House.

THE PRESIDENT—In the opinion of the Chair, the point of order is not well taken.

MR. VAUGHAN—I would like to hear the resolution read as amended.

This was done.

THE PRESIDENT—And the question is on the adoption of the resolution as amended.

MR. CUNNINGHAM—I think with a slight amendment that resolution will meet the unanimous support of the Convention.

MR. deGRAFFENREID—It has already.

MR. CUNNINGHAM—The resolution should be that hereafter no resolution naming the Democratic platform should be introduced.

There were cries of dissent.

MR. CUNNINGHAM—I am inclined to think that resolutions having reference to the work of the Convention on certain lines of policy should be adopted but I think it would be improper in such resolutions for the reasons stated by the author of this resolution that the Democratic platform should be specifically mentioned. Now, for instance, take the question of taxation. That could be passed on by a resolution without alluding to the Democratic platform. Take the question of suffrage. That could be passed on by a resolution without alluding to the Democratic platform and so could the question of State Capitol. Now it strikes me that to constantly have this Convention reminded that the Democratic platform is in a measure to doubt our sincerity and I agree fully with the author of the resolution and evidently a majority of the Convention that we should not be so constantly reminded of these partisan pledges. We are bound by them individually and collectively, and I move to amend the resolution by inserting at the proper place that the platform shall not be alluded to by name, my purpose being that any resolution hereafter introduced in reference to the pledge of the Democratic party should not be out of order. I am ready now to vote on the tax rate and on many other questions, and I don't believe we should be deprived of cutting off debate on the line that we are all necessarily compelled to follow.

Mr. Rogers (Sumter) was here recognized, but yielded to Mr. Oates.

MR. OATES—I rise for the purpose of inquiring of the delegate from Jefferson whether his amendment is necessary.

THE PRESIDENT—The gentleman from Montgomery desires to ask the delegate from Jefferson a question.

MR. CUNNINGHAM—Certainly.

MR. OATES—Is your amendment necessary? What you suggest would be an order without the amendment.

MR. CUNNINGHAM—Would a resolution setting forth the pledges be in order?

MR. OATES—Yes.

MR. CUNNINGHAM—Then I withdraw my amendment.

Mr. Reese, standing in the center aisle, here obtained recognition from the chair.

MR. HOWELL—I rise to a point of order. The rules say any member addressing the chair shall rise from his seat.

THE PRESIDENT—In the opinion of the chair, the point is well taken.

Mr. Reese hurried to his seat and there obtained recognition.

MR. REESE—It is not my purpose to be obstructive in this matter.

MR. ROGERS (Sumter)—I rise to a question of privilege. I suppose that the chair recognized me and I was on the floor previous to the gentleman from Dallas.

THE PRESIDENT—The amendment was withdrawn and the chair did not understand that the gentleman from Sumter held the floor. The chair will recognize the gentleman immediately upon the conclusion of the remarks of the gentleman from Dallas.

MR. REESE—It is not my purpose to antagonize or obstruct this convention, and this is not a partisan body. It is a convention of the people of Alabama and Democrats, Republicans and Populists ought not to figure; but it is the pledges that we should bear in mind, and I am not in a position to follow the gentleman who would suggest methods by which they would furnish facility to the convention to forget those pledges they have made to the people I have no reference to the pledges that the Democratic party has made to the people, but it is the pledges of the delegates themselves, whether they are Democrats or not, those that have come in here under the auspices of that party have accepted the pledges. There is no necessity for constant reference to the fact that the Democratic party controls the convention, but in my opinion, it is a very useless lesson to let these gentlemen bear constantly in mind that they are under pledges to the people of Ala-

bama. I have seen instances in the ordinances that have been introduced in the body that some of them are forgetful of the promises they have made in regard to taxation. Let us not forget those. There have been insidious methods introduced into this body under which the powers of taxation will be indirectly enlarged, and I, for one, want to go on record as not trying to put those pledges behind us where we can forget them. Mr. President, they ought to be stereotyped on this wall and this convention cannot be too frequently reminded of the fact that before they came here and when they were seeking this great trust—this great political power from the people of Alabama—that these pledges were constantly in their minds, and on their lips, and let us not put them behind us; let us not do a thing here today that will lead the people to believe that we are becoming oblivious to those promises. I think it is unwise to adopt this resolution. I think the decency and the intelligence of this body and the general sentiment of these delegates will restrain the members, and I, for one, believe the passage of the resolution is unnecessary. It can never be wrong to refer to pledges that the great old party that sent us here has made to the people, and I, for one, am not ashamed to hear delegates here refer to it.

MR. ROGERS (Sumter)—There is an old trite saying that the proof of the pudding is in chewing the rag. The people of Alabama have chewed the rag of the Democratic party for forty or fifty years and have found it good. The people of the State of Alabama rely, and expect, without question, that the Democratic party shall carry out its pledges, and it seems to me a reflection upon a body of men the like of which has not assembled upon this floor since 1875, to continue to remind them by resolutions of pledges made and thereby raise a doubt in the minds of the people of the State of Alabama that we have come here to do something which we promised not to do. Therefore, I now move the previous question upon this resolution.

MR. HEFLIN (Chambers)—I hope the gentleman will withdraw that motion for a moment.

MR. ROGERS (Sumter)—I decline to withdraw.

A vote being taken, the previous question was ordered, and a further vote being taken, the resolution was carried.

MR. OATES—I desire to offer a resolution and have it referred to the Committee on Rules.

MR. HEFLIN (Chambers)—I rise to a question of order. The gentleman from Sumter has his hat on. He has taken it off now.

MR. ROGERS (Sumter)—I had no intentions to be disrespectful, but I was intending to leave the hall.

The resolution, No. 82, offered by Mr. Oates, was read as follows:

Resolved, That the present Constitution shall be the basis for action by this convention, and all of its provisions which are not abrogated by repeal nor amended shall be and remain parts of the new Constitution.

Referred to Committee on Rules.

MR. OATES—Just one word in explanation. A good many of the gentlemen here in offering propositions are repeating parts of the constitution that are now in existence and are not proposed to be changed; that work can be saved and that is the object of this resolution.

THE PRESIDENT—The same resolution was offered this morning and was referred to the Committee on Order, Consistency and Harmony of the whole Constitution.

MR. OATES—That escaped my attention. I ask a reference of this to the Committee on Rules so that we can have a rule by which to be governed and thereby have the work to which I have referred.

THE PRESIDENT—That would place the same resolution before two different committees.

MR. OATES—The committee to which the first was referred does not act until after a great part of the labor of the convention is performed and I offer this with a view of facilitating the proceedings so as not to propose to re-enact parts of the constitution with which all are satisfied.

THE PRESIDENT—At the suggestion of the gentleman, the chair will refer this resolution to the Committee on Rules and will also refer the resolution introduced by the gentleman from Lauderdale to that same Committee.

Ordinance No. 162 by Mr. Samford:

To provide for the distribution of school funds.

Be it ordained, That Section 5, Article VII of the constitution be amended so as to read as follows:

"The income arising from the Sixteenth Section trust fund, the surplus revenue fund until it is called for by the United States Government, and the funds enumerated in Sections 3 and 4 of this article, with such other moneys to be not less than $500,000 per annum, as the General Assembly shall provide by taxation, or otherwise, shall be applied to the support and maintenance of the public schools and such funds as herein enumerated shall be divided between the different school townships throughout the State in proportion to the number of school children within the school

age, which funds shall be used by the township trustees for the exclusive benefit of the public education in their township, so that the number of school days allowed to the white race and to the colored race shall be equal, but in no event shall the township trustees establish more than two schools in such township for each race; and to the end that this section may be given full force, all school districts heretofore created be and the same are hereby abolished, and the General Assembly of this State is prohibited from hereafter establishing separate school districts, with powers or privileges in conflict with this section.

Referred to Committee on Education.

MR. ALMON—I rise to a point of order. The adjourning time has arrived.

THE PRESIDENT—It lacks a half a minute to the adjourning time and the Chair desires to make some announcements before adjourning.

The announcements were made and the Convention then adjourned.

NINTH DAY

MONTGOMERY, ALA.,
May 31, 1901.

The Convention was called to order by the President, and the proceedings were opened with prayer by the Rev. Neal Anderson as follows:

Almighty God, we praise Thee that Thou hast brought us together again at the beginning of a new day. We have laid us down in peace and have slept and awakened because Thou didst make us to dwell in safety. Thou hast cast our lot in a pleasant and fruitful land, Thou hast blessed this people with good government and with peace, Thou hast set Thy tabernacle among us and Thy sanctuary in our midst, Thou hast caused us to dwell in a land that has before it by Thy providence great future, a land of Goshen. We pray Thee than Thou wouldst open the eyes of Thy servants, that they may see the possibilities of the coming generation, and that they may plan wisely and in the fear of god. We pray Thee that Thou wouldst place in the hearts of this people the love of righteousness and truth that they may always remember that righteousness exalteth a people, and keep them, O God, from sin, which is a reproach upon any nation. Give unto Thy servants, the members of this Constitutional Convention, the spirit

of wisdom and of understanding, of counsel and light, and of the fear of God. We pray Thee, that those things which make for a people's peace may not be hid from the eyes of those that sit in the people's councils. May Thy servants be men who hate covetousness and love righteousness, and as we seek Thy blessing upon them and their labors, we pray Thy blessing upon those at home that Thou wouldst watch over them and keep them in Thine own dear keeping, that Thou wouldst grant that their lives and health and strength and their every interest may be precious in Thy sight, and grant unto us each one, O God, knowledge of the truth in Jesus for repentance of sin and forgiveness through the blood of Thy dear Son. Amen.

THE PRESIDENT—The Secretary will call the roll.

MR. deGRAFFENREID—I ask unanimous consent before the calling of the roll to be allowed to make a motion before the Convention, which I think in the future will tend to shorten its deliberations. I move that from this day forward, unless a demand is made for the roll call, for the purpose of ascertaining whether or not a quorum is present, the roll be not called. The presumption is that all members are in their seats unless they have obtained leave of absence, and we will thus save ten or fifteen minutes every morning. I understand this is the rule and custom in most deliberative bodies. It is the custom in Congress. As I say the presumption is that all members are in their seats unless leave of absence has already been obtained.

MR. OATES—I am sorry I cannot concur with my friend, the delegate from Hale. He alluded to Congress. They never fail to call the roll to ascertain who are present.

MR. deGRAFFENREID—I was told day before yesterday by a member of Congress, Hon. Geo. W. Taylor, that the calling of the roll was dispensed with and that there was no roll call in Congress unless it was done for the purpose of ascertaining whether or not there was a quorum.

MR. OATES—Then they have degenerated into that practice since I had the honor of being a member. I think the calling of the roll is very important. It will consume a very short time. We have dispensed, practically, with the reading of the journal and I don't think we should dispense with too much of what may be denominated proceedings.

MR. WHITE—I rise to a point of order. That motion is out of order.

MR. deGRAFFENREID—I ask for unanimous consent, if there is no objection.

MR. WILLETT—I rise to a point of order. The gentleman from Hale asks unanimous consent, if there is no objection. It is in order to make the motion when he asks unanimous consent, unless there is objection.

THE PRESIDENT—The Chair understands the point of order requires a suspension of the rules.

MR. deGRAFFENREID—I move a suspension of the rules, Mr. Chairman.

MR. OATES—I submit the point of order by the delegate on the right is not well taken because the Chair never put the question to know whether there was objection or not. The delegate from Hale stated "if there was no objection," but until the Chair puts the question whether there is objection, the point of order is not well taken.

MR. deGRAFFENREID—I move the suspension of the rules, and that in the future the roll call of this Convention in the morning be dispensed with, unless it be demanded for the purpose of ascertaining whether or not a quorum is present.

MR. BULGER—Mr. President, it looks to me, sir, like this is a very unwise measure—

MR. WILLETT—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. WILLETT—A motion to suspend the rules is not debatable.

THE PRESIDENT—The point of order is well taken.

MR. GRAHAM (Talledega)—I rise to a point of order, the motion for suspension of the rules has not received a second.

The motion was seconded.

THE PRESIDENT—The motion of the gentleman from Hale is that the rules be suspended.

MR. BEDDOW—I move that the motion of the gentleman from Hale be laid upon the table.

Seconded.

MR. WHITE—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point.

MR. WHITE—You cannot lay on the table a motion of that character.

THE PRESIDENT—The point of order is well taken.

The question was put upon the motion to suspend the rules and on a vote the motion to suspend was lost.

The roll was called and showed the presence of 123 delegates, a quorum.

THE PRESIDENT—The next order of business is the report of the Committee on Journal—

MR. PETTUS—Mr. President, I desire to offer a resolution, relating to the proceedings.

Resolution No. 83, by Mr. Pettus:

Be it resolved, That hereafter all ordinances, and resolutions, offered in this Convention shall state briefly in the title the substance of such ordinance or resolution and shall be read by the title only and referred to the appropriate committee, provided, that it shall be in order for any delegate to call for a full reading of such ordinance or resolution within a reasonable time after it has been read by the title.

THE PRESIDENT—The resolution will not be in order at this time, except by unanimous consent.

MR. PETTUS—I ask unanimous consent to have it referred to the Committee on Rules.

THE PRESIDENT—The gentleman asks unanimous consent to have it referred to the Committee on Rules. Is there objection? No objection being made it is so referred.

The report of the Committee on Journal was read, stating the journal has been examined and found correct.

MR. PETTUS—I move that the report be accepted.

MR. MORRISSETT—I move that the report be adopted.

Seconded.

The motion was carried.

MR. KIRKLAND—I desire to ask leave of absence for tomorrow and Monday.

The leave was granted.

MR. FOSTER—I ask leave of absence for Mr. Searcy of Tuscaloosa for today and tomorrow.

Granted.

MR. GRANT (Calhoun)—I desire to ask leave of absence for the delegate from Etowah County for tomorrow, Mr. Kyle.

The leave was granted.

MR. PORTER (Coosa)—I ask leave of absence for tomorrow and Monday.

The leave was granted.

MR. MILLER (Marengo)—I desire to ask leave of absence for tomorrow, Monday and Tuesday.

The leave was granted.

MR. JACKSON—I desire to ask leave of absence for this afternoon, tomorrow and Monday.

The leave was granted.

MR. MALONE—I desire to ask leave of absence for Mr. Reynolds of Henry for today and tomorrow.

The leave was granted.

MR. WILSON (Washington)—I desire to ask leave of absence for today and tomorrow for Mr. Gilmore of Clarke.

The leave was granted.

MR. McMILLAN (Wilcox)—I ask leave of absence for Mr. McMillan of Baldwin for Monday.

The leave was granted.

MR. BRONWE—I move, Mr. President, when this convention adjourns today, that it adjourn to meet at 11 o'clock on Monday.

The motion was seconded.

MR. BROWNE—I move to suspend the rules in order that the motion may be put on its passage.

The motion to suspend was seconded.

MR. FOSTER—Mr. President, I move to amend that motion by changing the hour to 12 o'clock Monday.

MR. BROWNE—I accept the amendment.

MR. PRESIDENT—The gentleman from Talladega moves when this convention adjourns today that it adjourn to meet at 12 o'clock on Monday.

The motion was carried.

THE PRESIDENT—The question now is upon the reading of the journal.

MR. BOONE—Mr. President, I move that the reading of the journal be dispensed with.

The motion was seconded and carried.

MR. FREEMAN—I desire to ask leave of absence for myself for Monday.

Granted.

MR. COBB (Macon)—I ask leave of absence for Monday for myself.

Granted.

MR. FOSTER—I have an ordinance, which was referred to the Committee on Amendments of the Constitution, relating to the working of roads by taxation. I ask the President to consider whether it should not be referred to the Committee on Taxation.

THE PRESIDENT—The gentleman is correct, and at the suggestion of the gentleman from Tuscaloosa, the ordinance will be referred to the Committee on Taxation.

MR. STEWART—I ask leave of absence for Monday.

The leave was granted.

MR. MAXWELL—I desire to ask leave of absence for Monday.

The leave was granted.

MR. WILLIAMS (Marengo)—I ask leave of absence for Monday.

The leave was granted.

MR. GREER (Calhoun)—I desire to ask leave of absence for Monday.

The leave was granted.

MR. LOWE (Lawrence)—I desire to ask leave of absence for myself for Monday.

The leave was granted.

MR. ESPY—I have a resolution I desire to have read.

THE PRESIDENT—The resolution is not in order at this time.

MR. ESPY—I ask unanimous consent that it be referred to the Committee on Rules.

THE PRESIDENT—The gentleman from Henry asks unanimous consent—

MR. WILLETT—I object. I insist on the regular order.

MR. O'NEAL (Lauderdale)—I would be glad if the clerk would inform the House whether, with the number of leaves of absence which have been granted for Monday, a quorum can be obtained on that day? I think the convention would be glad to know that fact.

THE PRESIDENT—Seventeen leaves have been granted. The chair thinks there will be no difficulty about a quorum. The Secretary will continue the roll call where he left off on yesterday.

MR. MORRISSETT—The gentleman from Limestone has offered a resolution, which was referred to the Committee on Rules, with reference to reading ordinances and resolutions by their tities. I heartily concur in that resolution, but if the Committee on Rules reports favorably upon the resolution and an ordinance is read by its title, will it be included in the stenographic report?

THE PRESIDENT—It is impossible for the chair to state whether the Committee on Rules will report it, or report it favorably.

MR. MORRISSETT—I understand, but the idea is, if the Committee on Rules will report it favorably, still the ordinances and resolutions will be included in full in the stenographic report.

MR. GRAYSON—Mr. President, I move, sir, that we reconsider the motion by which we just agreed to adjourn over until next Monday. Now, on last Saturday there was merit in that adjournment, simply because the committees had not been formed, and the business of the convention had not been fairly started, but now many of us live a long way off, and we have come here to do the business of the State, and I hold, sir, that it is our duty to remain here on Saturday and proceed with the business that is before us.

MR. VAUGHAN—Mr. President, I move that we proceed with the regular order.

THE PRESIDENT—Let me state the question—The gentleman from Madison moves to reconsider the vote by which this convention determined to adjourn when it adjourns today, to meet on Monday.

MR. WILLETT—I rise to a point of order. A motion to reconsider an adjournment is not in order. A motion to adjourn after the House has decided to adjourn to a time definite is not reconsiderable.

THE PRESIDENT—In the opinion of the chair, the point of order is well taken.

MR. MULKEY—I desire to ask leave of absence for Monday and Tuesday.

The leave was granted.

THE PRESIDENT—The Secretary will proceed to call the roll.

Ordinance No. 163, by Mr. Sanders:

An ordinance to amend Article VIII. of the Constitution by striking out the whole thereof, and inserting the following touching all who will be eligible to register, vote and hold office in Alabama.

Be it ordained by the people of Alabama in Convention assembled:

First—That every male citizen of the State, and of the United States, native born or naturalized, not less than 21 years of age, and possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election in the State by the people, except as may be herein or otherwise provided.

Second—He shall have resided in the State of Alabama for one year, in the county six months, and in the precinct, ward or other election district, in which he offers to vote, for three months next preceding the election. Provided, the removal from one precinct, ward, or other election district to another in the same county, shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which he has removed, until three months after such removal: and provided, that no soldier, sailor, nor marine in the military service of the United States, shall acquire a residence by being stationed in this State.

Third—Every person offering to vote shall be at the time a legally registered voter and in the manner hereinafter provided by law; and the General Assembly of Alabama shall enact general registration laws to carry into effect the provisions of this article.

Fourth—Every person presenting himself for registration shall be able to read and write any section of the Constitution of this State, and of the United States, in the English language. But no male person who was on January 1st, in 1867, or at any time prior thereto, entitled to vote under laws of any State of the United States wherein he then resided, and no lineal descendant of any such person shall be denied the right to register and vote at any election in this State by reason of his failure to possess the educational qualification herein prescribed; Provided, he shall have registered in accordance with the terms of this Section prior to December 1, 1911. After said date no person thereafter arriving at the age of 21 years shall be eligible to register, vote or hold office in this State who does not possess the qualifications of an elector hereinabove prescribed in this section.

Fifth—The General Assembly shall provide for the registration of all persons entitled to vote without the educational qualification herein prescribed; and shall on, or before, November 1, 1911, provide for the making of a permanent record of such registration; and all persons registered shall forever thereafter have the right to vote in all elections by the people in this State, unless disqualified under Section 2 of this Article, and under the next succeeding section thereof.

Sixth—The following persons shall not be permitted to vote, or to register as voters, or to hold public office in this State, while their disabilities continue, namely: Those who deny the existence of Deity; those who are idiots or insane; those who shall have been convicted of giving or receiving any bribe to influence voters or any election officers, with reference to any election: those who have been convicted or who shall confess their guilt upon indictment pending of any offense punishable by imprisonment in the penitentiary, unless their disabilities have been removed according to law.

Seventh—All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce.

Eighth—Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, or while going to or returning therefrom.

Ninth—The General Assembly shall pass laws not inconsistent with this Constitution, to regulate and govern elections in this State, and all such laws shall be uniform throughout the State.

Tenth—It shall be the duty of the General Assembly to pass adequate laws affording protection against the evils arising from the use of intoxicating liquors at all elections in this State.

Eleventh—Persons who are not citizens of the United States, and who are not descended from a father or mother belonging to the white race, shall not be eligible to any office under the Constitution and laws of this State.

Twelfth—All persons elected to public office in this State, before entering upon the duties of the office, shall take and subscribe the following oath:

I, ..., do solemnly swear (or affirm) that I will support and maintain the Constitution and the laws of the United States, and the Constitution and laws of the State of Alabama, not inconsistent therewith and that I will faithfully discharge the duties of my office as ....., so help me God.

Thirteenth—Returns of elections for all civil officers who are to be commissioned by the Governor except Secretary of State, State Auditor, State Treasurer, and Attorney General, and for members of the General Assembly, shall be made to the Secretary of the State.

Referred to Committee on Suffrage and Elections.

Ordinance 164, by Mr. John W. A. Sanford:

An ordinance to amend Section 54 of Article IV., and to authorize the State to construct and own works of internal improvement.

Be it ordained by the people of Alabama in Convention assembled, That Section 54 of Article IV. of the Constitution, be amended by striking out the words: "The State shall not engage in works of internal improvements," so that the section shall read

as follows: "The State may construct and own works of internal improvements having for their object the conveyance and transportation of passengers and freight; but shall not lend 'its money or credit in aid of such; nor shall the State be interested in any private corporate enterprise; or lend money or its credit to any individual, association, or corporation.'"

Be it further ordained, That the State shall have no power to sell, mortgage, lease or alienate in any manner such internal works of improvement to any individual, association or corporation.

Be it further ordained, That only persons convicted of crime shall be employed as laborers in the construction of such works of internal improvements.

Referred to Committee on Legislative Department.

Ordinance No. 165, by Mr. Sanford (Montgomery):

An ordinance to prohibit the General Assembly from abolishing the military system of education in the University of Alabama and in the Alabama Polytechnic Institute.

Be it ordained by the people of Alabama in Convention assembled, That the General Assembly shall have no power to abolish, or to authorize any Board of Trustees to abolish, the system of military education in the University of Alabama and in the Alabama Polytechnic Institute.

Referred to Committee on Education.

Ordinance No. 166, by Mr. Sanford (Montgomery):

An ordinance to amend Section 2 of Article I. of the Constitution by striking out the words "or who shall have legally declared their intention to become citizens of the United States."

Be it ordained by the people of Alabama in Convention assembled, That Section 2 of Article I. (Declaration of Rights) be amended by striking out the words, "or shall have legally declared their intention to become citizens of the United States," so that the section shall read as follows:

Sec. 2. That all persons who are residents in this State, born in the United States or naturalized, are hereby declared citizens of the State of Alabama, possessing equal civil and political rights.

Referred to Committee on Preamble and Declaration of Rights.

Resolution 84, by Mr. Sanford (Montgomery):

Resolved, That during the call of the roll for the introduction of resolutions and ordinances no discussion upon any subject shall be heard by the Convention, and all such discussion shall be considered out of order.

MR. SANFORD—I move that the rules be suspended so that the Convention can act on that resolution immediately.

A vote being taken, the Convention refused to suspend the rules, the vote on division being 46 ayes, 54 nays.

The resolution was referred to Committee on Rules.

Ordinance No. 167, by Mr. Selheimer:

An ordinance to amend Section 29 of Article IV. of the Constitution of Alabama.

Be it ordained by the people of Alabama in Convention assembled, That Section 29 of Article IV. of the Constitution of Alabama be amended so that the same shall read as follows:

The General Assembly shall have no power to grant, or to authorize or require any county or municipal authority to grant, nor shall any county or municipal authority have power to grant, any extra compensation, fee or allowance to any public officer, servant or employee, agent or contractor, after service shall have been rendered or contract made; nor shall any officer of the State bind the State to the payment of any sum of money but by authority of law.

Referred to Committee on Legislative Department.

Ordinance No. 168, by Mr. Selheimer:

To amend Section 13 of Article V of the Constitution of Alabama.

Be it ordained by the people of Alabama in convention assembled, That Section 13 of Article V of the Constitution of Alabama be amended so that the same shall read as follows:

Every bill which shall have passed both houses of the General Assembly shall be presented to the Governor; if he approve he shall sign it, but if he shall not approve he shall return it with his objections to that house in which it shall have originated, which house shall enter the objections at large upon its journal and proceed to reconsider it. If, after such reconsideration, a majority of the whole number elected to that house shall vote for the passage of said bill, it shall be sent with the objections, to the other house by which it shall likewise be reconsidered; if approved by a majority of the whole number elected to that house, it shall become 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 upon the journals of each house respectively. If any bill shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the General Assembly by their adjourn-

ment prevent its return, in which case it shall not be a law unless the Governor, within ten days after such adjournment, shall sign the same and deposit it in the office of the Secretary of State, in which case it shall become a law in like manner as if it had been signed by him before adjournment. And every order, vote or resolution to which the concurrence of both houses may be necessary (except questions of adjournment and of bringing on elections for the two houses and of amending the Constitution) shall be presented to the Governor and before it shall take effect, be approved by him, or being disapproved, be repassed by both houses according to the rules and limitations prescribed in the case of a bill.

Referred to Committee on Executive Department.

Ordinance No. 169, by Mr. Sentell:

Relating to exemptions.

Be it ordained by the people of Alabama in convention assembled, That Section 2 of Article X of present Constitution be amended by incorporating into said section the following:

"Such resident may select and have set apart as a homestead, a residence in any town or city and also a parcel or tract of land any where in the county of such residence, Provided the area of both does not exceed 160 acres and the value of both does not exceed $2,000.

Exemptions.

Mr. Sloan yielded his time to Mr. Beavers. Mr. Beavers offered memorial, which was read as follows:

To the President and Delegates of the Convention of the People of the State of Alabama:

With the view of asking the Constitutional Convention for relief from the act purporting to have been passed by the recent General Assembly of Alabama, removing the county seat of Shelby County from Columbiana to Calera, we have prepared the following statement, in order that the members of the convention may be thoroughly informed as to the manner of the passage of the act to wit:

In 1895, an election was held in Shelby County under authority of an act of the General Assembly passed at the instance of the citizens of Calera to permanently locate the county seat of the County—the places voted for being Columbiana and Calera, Columbiana carried this election by 826 majority. This was intended to settle this question. But at the session of the General Assembly of 1898-9, another act was passed, also at the instance of Calera, providing for another election on this same question, Columbiana and Calera being the only places to be voted for. Calera was given four years in which to call said election. Two years of said time has elapsed and no election has been called.

At the last session of the General Assembly (session of 1900-1) an act was alleged to have been passed directly removing the county seat from Columbiana to Calera. This act was passed secretly and fraudulently, and with the knowledge of possibly not exceeding a half dozen citizens of the county, and certainly contrary to the will and wish of a large majority of the citizens and tax payers of the county, and, notwithstanding the members of the General Assembly from Shelby County had assured the people of the county that they would not introduce any legislation pertaining to the court house.

The fact if the introduction, pendency and passage of this bill was, in some unexplained manner kept out of the daily report of the proceedings of the legislature as made by the newspapers of the State, no reference thereto having been made in any of the papers until the morning after the General Assembly had adjourned when the fact of the passage of the act the day previous appeared in the daily papers. This is the first intimation that the people of the County had of the existence of the act. Letters were at once written to all the members of the General Assembly asking information in regard to the passage of the bill. Seventy-four members answered that they never heard of such a bill until after the adjournment of the General Assembly, and only three or four wrote that they had any knowledge of it, and their knowledge was of the most meager and indefinite character.

Thirty-eight of the sixty-nine members of the House who appear from the journal to have voted for the bill say they never heard of such a bill. The others have not yet been heard from.

Eight members of the Committee on County and County Boundaries in the House, to which Committee this bill was referred, appear to have signed their names across the back of the original bill, making a favorable report thereon. Six out of the said eight members say they not only did not make such report, but that they never heard of the bill.

Hon. W. E. Striplin of Elmore County, appears to have signed said favorable report and said bill, and acting chairman. That gentleman writes a letter in reference to the same, a copy of which is as follows:

Tallassee, Ala., May 7, 1901.

Hon. J. R. White, Columbiana, Ala.:

My dear Sir—In reply to yours of the 26th of April, beg to say, that I have no knowledge of the passage of the court house bill in your County. I don't remember one thing about it. I notice they have me reported as acting chairman when the bill was reported, but I am certain that was not the bill. It was a little stock bill, I think. They may have had a blank cover on it, and after getting our names on it, removed it to the court house bill. I am sure I never saw the courthouse bill.

Yours truly,

W. E. Striplin.

The other letters of the members of said Committee are strong and emphatic. They are in our possession here and any one desiring to see them may do so by applying to the undersigned.

The wrapper or cover enclosing this bill, which is House bill No. 1587, on the back of which is no endorsement of the caption of the act, bears convincing evidence of having been the cover of some other bill or paper before it was made the cover of this one—thus corroborating the suggestion contained in the letter of Mr. Striplin, Acting Chairman, that the cover with the favorable report thereon must have been removed from some other bill and used as the cover of the Court House bill.

Hon. C. C. Whitson, a prominent member of the last House, was requested by those who opposed the removal of the Court House from Columbiana to observe closely the legislation from Shelby County and to inform the friends of Columbiana of any legislation that might be attempted in reference to the Court House. He writes that he watched closely after this matter all the while, and never heard of any such measure until the adjournment. He is put down as voting for the bill.

Hon. J. L. Peters of Columbiana, defeated Democratic candidate for the legislature attending on the session of the legislature much of the time, looking after the legislation for the County. He says he never heard of the bill.

The act places an enforced indebtedness of about $75,000 (principal and interest) on the tax payers of Shelby County.

Moreover, it removed the county seat from near the center of the County to a place within two miles of the boundary line of Chilton.

While Shelby County has been Populite for the past twelve years, the Democratic party succeeded in electing a Democrat as delegate to this Convention upon a platform pledging him to use all honorable means to secure, through this Convention, relief against the provisions of said act, although the candidate of the opposition was in favor of the removal of the County seat to Calera—thus again showing the will of the people of the County against the removal of the County seat.

Both the Democratic and Populist parties of the County in their respective Conventions assembled, condemned, in strongest terms, the passage of the act.

In view of the foregoing facts and conditions and for the protection of the tax payers of Shelby County and for the purpose of righting the outrageous wrong, we earnestly request that you adopt such measure as will give relief against the provisions of the alleged act of the last legislature so removing the Court House from Columbiana to Calera.

Yours respectfully,

(Signed)

D. R. McMillan,
J. R. White,
W. B. Browne,
A. P. Longshore,
Gordon DuBose,
Citizens Committee.

Ordinance 170, by Mr. J. R. Beavers:

To declare null and void the act of March 5th, 1901, with accompanying memorial (relates to County seat of Shelby County).

Be it ordained by the people of Alabama in Convention assembled, that the act entitled an Act to provide for the removal of the County seat of Shelby County from Columbiana to Calera: to authorize an issue of County bonds to raise money for the erection of a Court House and jail and to provide for the erection of such building at Calera; to provide for paying for the interest and principal of said bonds; to appoint a Board of Court House Commissioners and to prescribe their duties and compensation, approved March 5th, 1901, be and the same is hereby declared null and void.

Referred to Committee on State and County Boundaries.

MR. SMITH—I desire to make a report from the Committee on Rules.

The report was read as follows:

The Committee on Rules begs to report to the Convention that it has had under consideration the resolutions hereinafter mentioned, and reports thereon as follows:

The Committee reports favorably upon Resolution No. 41, introduced by Mr. Altman of Sumter, and recommends its adoption by the Convention. Said resolution reads as follows:

Be it resolved, That 300 copies of the Bill of Rights and Constitution be printed and distributed among the members of the Convention and Committees.

The Committee reports favorably to Resolution No. 34, introduced by Mr. Reese of Dallas, and recommends its adoption by the Convention, which resolution reads as follows:

Resolved, That for the purpose of easy reference, the Rules Committee, or such other committee as shall have supervision of the printing of the record of the proceeding, shall cause the pages constituting such record to be numbered consecutively in the same manner now practiced in the Congressional Record of the Congress.

The Committee reports favorably to Resolution No. 71, introduced by Mr. O'Neal of Lauderdale, and recommends its adoption by the Convention, which resolution reads as follows:

A resolution to adopt the present Constitution of the State of Alabama by this Convention, subject to such revisions and amendments in any Article, Section or part thereof as this Convention may hereafter determine.

That whereas, the act of the General Assembly of Alabama, which provided for the holding of this Convention, declares that this Convention shall continue in session until it shall by careful revisions and amendments of the present Constitution frame and adopt a revised Constitution for this State.

Therefore be it resolved, That the present Constitution of the State of Alabama be, and the same is hereby adopted by this Convention as the Constitution of the State of Alabama, subject only to be revised, amended or altered, in any Article, Section or Clause, or part thereof.

The Committee reports adversely to Resolution No. 82, introduced by Mr. Oates of Montgomery, and recommends that it be not adopted by the Convention, because the operation of the resolution of Mr. Oates is identical with the operation of Resolution No. 71, by Mr. O'Neal of Lauderdale, hereinabove reported favorably, and the Committee reports adversely to this resolution only for the reason that its subject matter is fully covered by the resolution of Mr. O'Neal. Said resolution No. 82, introduced by Mr. Oates, reads as follows:

Resolved, That the present Constitution shall be the basis for action by this Convention and all of its provisions which are not abrogated by repeal nor amended shall be and remain parts of the new Constitution.

The Committee reports favorably to resolution No. 76 introduced by Mr. Proctor of Jackson, and recommends its adoption by the Convention. Said resolution reads as follows:

Resolved, That the reading each day of the Journal of this Convention be dispensed with unless the same is demanded by the Convention.

The Committee reports favorably to resolution No. 80, introduced by Mr. Reese of Dallas, and recommends its adoption by the Convention. Said resolution reads as follows:

Resolved, That Rule 27 be and is hereby amended as follows, by adding at the end thereof the following words:

"Provided, that any vote taken on the last day of the session of this Convention may be reconsidered on same day."

The Committee reports adversely to resolution No. 50, introduced by Mr. Henderson of Pike, and recommends that it be not adopted by the Convention, for the reason that Resolution No. 41, introduced by Mr. Altman of Sumter, covers the same matter and has been favorably reported. Said resolution reads as follows:

Resolved, That 500 copies of the present Constitution be printed for the use of members of this Convention.

The said resolutions hereinabove referred to are herewith returned to the Convention.

MR. PETTUS—It seems to me that the resolution reported by the Committee on Rules and offered by the gentleman from Lauderdale, Mr. O'Neal, is very important, and as I do not fully understand it, I should like to have that part of the report read over again or I would call for a division of the report so that I can vote separately on that proposition.

THE PRESIDENT—Which do you want?

MR. PETTUS—I call for the reading first.

The clerk read the part of the report referred to.

MR. BLACKWELL—I would like to ask a question. Is not the present constitution, the Constitution of the State of Alabama until we make a new one without adopting a resolution to that effect.

THE PRESIDENT—Does the delegate ask that question of the Chair?

MR. BLACKWELL—Yes, sir.

THE PRESIDENT—In the opinion of the Chair, the constitution now in force will continue in force until it is repealed or a new constitution adopted.

MR. SOLLIE—But for the fact that side issues are being brought in I would not make the point of order, I am about to make. We are proceeding with the roll call of members for the purpose of the introduction of ordinances, resolutions, etc., and the reports of committees, either standing or special are out of order.

MR. WILSON (Clark.)—Under the rules, the Committee on Rules can report at any time. I desire to offer a substitute for the proposition of the gentleman from Lauderdale and I ask that it be read.

MR. WHITE—May I inquire Mr. Chairman if I had not the floor.

THE PRESIDENT—The Chair had recognized the gentleman from Clark.

MR. WHITE—I understand that, but I understood only for the purpose of making a point of order.

MR. WILSON—I rose before the gentleman from Dale interposed a point of order and I rose to offer a substitute.

THE PRESIDENT—When the Chair recognized the gentleman from Jefferson he supposed the gentleman from Clark had taken his seat, but found that he had not.

The substitute offered by Mr. Wilson (Clark) was read as follows:

Resolved by the convention that each committee report to the convention the article or section of the present constitution which it is proper for said committee to consider as to which no amendment has been proposed and which in the judgment of the committee having charge of the article or section should not be amended.

THE PRESIDENT—The question is on the adoption of the substitute.

MR. WILSON (Clark)—I favor the reason for the resolution proposed by the gentleman from Lauderdale, but it has occurred to me that his resolution was not certain enough to enable the convention to decide as to what matters in the judgment of the convention should be considered and what should not be. It seems to me the only direct way to get at the matter is for each committee to take up the matter of which it has jurisdiction and consider the article and report back to the convention all of the sections in that article as to which no amendment is pending and as to which in the judgment of the committee no amendment should be proposed and report that matter back to the convention, then leave us to consider such matters as the committees think should be considered and such matters as gentlemen have proposed amendments to. That was my purpose in offering the substitute for the resolution.

MR. WHITE—I much prefer the substitute to the original resolution, but I am not prepared to say that I shall support that. It looks like now we are going to complicate ourselves very seriously by the adoption of this resolution or possibly by the adoption of the substitute. When we once adopt that, then that is the constitution, not by virtue of the fact that it is already the constitution but by virtue of our action in adopting it. Then we cannot amend that constitution after having so adopted it unless we suspend the operation of that resolution and we can only do that by giving notice of a motion to reconsider it today and reconsider it tomorrow. In other words, it seems to me we tie our hands when we have once adopted that resolution; then the present constitution becomes the constitution which we have already adopted and we will find our hands tied in that we can only get rid of these provisions by a motion to reconsider or by a motion to suspend the rules which takes a two-thirds vote of the convention to carry. I think we should consider very seriously this resolution before we adopt it.

A reading of the original resolution which was favorably reported on by the Committee on Rules and of the substitute offered by the delegate from Clark was called for and had.

MR. SMITH (Mobile)—It seems to me there is a misunderstanding as to the purpose of the original resolution. The purpose of the original resolution as the committee understood it was to relieve us of the necessity of introducing a number of resolutions, the object and purpose of which were to re-enact certain sections of the present constitution as they now are; and the idea was that it would be unnecessary at this time or at least until the Committee on Harmony had finally reported the constitution, to offer any ordinance whose sole purpose was to re-enact any existing provision of the constitution. The purpose of the ordinance was to have an understanding that everything that was not amended or repealed by an ordinance introduced and passed would be considered and adopted as a part of the final constitution.

Now, as to the substitute: It seems to me it does not get at it as directly as the original motion. It directs the committee, it is true, to report such portions of the constitution as have not been adopted but it does not create the distinction which the original resolution does, that all portions of the constitution not affected by the work of this convention shall stand as part of the new constitution.

The objections of the gentleman from Jefferson seems to me not well taken as we are now proceeding in a number of instances by the introduction of ordinances whose sole purpose is to re-enact portions of the constitution—we are falling into the same embarrassment that my friend points out as the result of this resolution. We here adopt before the matter has been fully considered a portion of the existing constitution as a part of the new constitution. Later on a gentleman introduces a resolution to conflict with it or a committee when it comes to report upon an article makes a report in conflict with it and in each and every instance an inquiry would be made as to whether or not some previous motion or resolution has to be considered before that new ordinance or report of committee can be taken up and considered.

MR. WHITE—Will the gentleman allow me to ask a question?

MR. SMITH (Mobile)—Yes, sir.

MR. WHITE—Suppose that some member should want to introduce some measure that is entirely a new law, and does not form any part of the present Constitution, are we not limited by that resolution to simply amending, altering, or changing the present Constitution? In other words, have we the opportunity under that resolution to introduce measures entirely new and not embraced by that? In other words, can we do anything, except alter, amend, or change the present Constitution if that is adopted?

MR. SMITH (Mobile)—In reply to the gentleman, I beg to say that in my opinion it does not prevent any change of any kind or description. If a resolution is offered, expressly repealing, or in conflict with any provision of the present Constitution, it seems to me that by its own force it alters the Constitution to that extent.

MR. WILLETT—Will the gentleman allow we to ask a question?

THE PRESIDENT—Does the gentleman consent to be interrupted?

MR. SMITH (Mobile)—Yes.

MR. WILLETT—Suppose I should introduce the bill of rights here as a resolution, who passes upon it? Under that rule as the delegate from Pickens, I send forward to the clerk's desk a resolution. Does the journal show it, or is it ruled out, under that resolution?

MR. SMITH (Mobile)—It seems to me that it wuold be directly in conflict with the resolution now offered.

MR. WILLETT—Then what becomes of my resolution?

MR. SMITH (Mobile)—I think it would have the same effect as if you offered to reintroduce a resolution which had already been adopted by the convention.

MR. WILLETT—Would the chair order that resolution stricken from the journal?

MR. SMITH (Mobile)—I am not able to answer the gentleman for lack of parliamentary experience. The gentleman, I believe, is more of a parliamentarian than I am. I am informed, however, that the chair would refer it to the committee. As far as I am able to go personally, is to say that it would be asking the convention to do over a second time what has already been done.

MR. CARMICHAEL (Colbert)—Mr. President, at the proper time, I wish to introduce the following resolution—

THE PRESIDENT—The question is upon—

MR. CARMICHAEL (Colbert)—Yes, sir; but I propose to use this as a part of my remarks.

"Resolved, That the Committee on the Order and Harmony of the Constitution be directed to report back to the convention, when they make final report such parts of the old Constitution as have not been amended by the proposed ordinances, as a part of the proposed new Constitution."

It seems to me, Mr. President, that the adoption of this resolution would obviate the objection made by the gentleman from Jefferson. The object of the proposed resolution by the gentleman from Lauderdale was to obviate the necessity of reading parts of the old Constitution, which will be accepted by all members of this convention. Now, if this Committee on the Order and Harmony of the Constitution be directed to report back to this convention such parts of the old Constitution as have not been amended, and the report of this committee be taken up and acted upon, if that course be adopted, we will neither adopt the old Constitution at this time, nor will we in any manner hamper the action of the convention. I will propose this resolution at the proper time. It is not proper now, but I will propose to offer it as a substitute for the substitute.

I will not offer this as an amendment, Mr. President, to the amendment which has been offered.

THE PRESIDENT—The gentleman from Colbert offers to amend the amendment offered by the gentleman from Clarke.

MR. COLEMAN (Greene)—Let it be sent up and read from the clerk's desk.

The resolution was again read.

MR. deGRAFFENREID—Mr. President, the House will remember that during the past three or four days, we have spent most of our time in receiving ordinances and resolutions from the various members of this Convention. A great many of those ordinances were but reiterations of the present Constitution, in many particulars. There was, occasionally, an ordinance introduced which had as its basis, an entire article of the Constitution, with only one or two changes. The result was that we were listening to the reading of a long ordinance, re-enacting in nearly every particular the present Constitution, and making only an important change therein. It was thought by the Committee on Rules, that, if this resolutions of Mr. O'Neal's was adopted, we would have before us a framework upon which to build; that it would be unnecessary for this Convention, for instance, to consider the question as to whether or not there should be an increase in the tax rate in the State of Alabama, or whether or not there should be an increase in the powers of corporations, in this State, unless there were resolutions introduced by the members of the Convention, tending to such increases of taxation or powers. Now the gentleman from Jefferson asks the question, Mr. President, as to whether or not, if some member had something that was entirely new, something that does not now exist in the Constitution, if he would not have to move a suspension of the rules, and ask that it be introduced. Not at all. The resolution of the gentleman from Lauderdale provides simply that the present Constitution as it now exists shall be the Constitution adopted by this

Convention, subject to such alterations, amendments or changes as this Convention may see proper to make therein. The introduction of anything that is new, would be an amendment to the Constitution.

We have been here now for something like two weeks discussing the Fourteenth and Fifteenth amendments to the Constitution of the United States. The Fourteenth and Fifteenth amendments introduced entirely new matter into the Constitution of the United States, and they became amendments because of the fact that they did introduce new matter therein.

It seems to me, Mr. President, as I stated to commence with, that this simply gives us a frame upon which to work. We will have something upon which to build. For instance, take the exemptions—

MR. WILLETT—Who is to decide whether it amends the Constitution, or whether it is new?

MR. deGRAFFENREID—It does not matter. The Convention has the power to determine. The Convention determines all questions before it. We have a presiding officer who rules upon all questions, but if his ruling is inconsistent with the opinion of the Convention, it is overruled.

I was going to say, Mr. President, that the subject of exemptions: is it necessary that this Convention pass an ordinance re-enacting the present exemption laws in the Constitution? Is it necessary that this Convention pass an ordinance re-enacting the article on the subject of taxation? It seems to me that the resolution of the gentleman from Lauderdale leaves it within the power of this Convention to do every act that this Convention can do without it, and I, therefore, Mr. President, move that the resolution of the gentleman from Clarke, as amended by the gentleman from Colbert, be laid on the table.

MR. CUNNINGHAM—I ask the gentleman to withdraw a moment—

MR. deGRAFFENREID—All right sir, I will, and renew it when you finish your remarks.

MR. CUNNINGHAM—As a member of the Committee on Rules, I desire simply to explain my understanding of the purpose of this resolution offered by the delegate from Lauderdale. In the first place, it was not to give the legal force to the present Constitution. We all know that the present Constitution stands until the new Constitution shall have been proposed by this Convention, ratified by the people, and proclaimed by the Governor. The whole question is one of parliamentary procedure, and nothing else. The misunderstanding of the Convention arises from the preamble and not from the resolution itself.

The gentleman from Hale has solved the problem when he says that it is looking to amendments and revisions of the Constitution, and the real purpose of the Committee, and the author of the resolution, was to save the time and the expense of printing. If the gentleman from Jefferson desires to amend an article of the Constitution entirely with new matter he would simply introduce an ordinance amending such article, and the amendment would consist of striking out and inserting, if he only wanted to amend a section of a certain article.

MR. WHITE—Will the gentleman allow me to ask a question?

MR. CUNNINGHAM—Certainly.

MR. WHITE—Suppose he wanted to introduce an entirely new article?

MR. WHITE—Suppose he did not want to strike out?

MR. CUNNINGHAM—Then if the gentleman will wait, I will answer the question. If you want to substitute certain portions of an article or section, you would move to strike out, and insert those portions; if you wanted to insert new matter, and have the old matter removed, he would simply move to insert the new matter; if he wants to add a section, he would amend by adding such section to the article.

The purpose, sir, is to save the time of the Convention in reading articles of the present Constitution over and over in order to get at one little amendment—probably one word. One ordinance has been before some committee that I am a member of, I do not remember which now, that was a number of pages, that simply added one word, one word. Now the proper way, would be to do this; a delegate who desires to amend any section, or article of the Constitution, would say, "amend by striking out and inserting such section," or any such article, and inserting the proposed amendment; and only the amendment would, therefore, be read and go on the minutes of this Convention, and that would save a great deal of time, and a great deal would be gained.

MR. MACDONALD—Would that probably put this convention in the position of ratifying and confirming, and adopting the Constitution right now, which we were called here to amend?

MR. CUNNINGHAM—No, sir.

MR. MACDONALD—In other words would not we be voting aboslutely against the amendments we are proposing here, and adopt the sections we want to amend?

MR. CUNNINGHAM—Certainly not, because as yet we have not amended a single punctuation point in the Constitution. As I say, it is simply a question of parliamentary procedure and

nothing else. It does not affect the question, as far as adopting the present Constitution is concerned, and I believe if the Convention understood it, they can see the great amount of time that can be saved, not only in reading, but in printing.

MR. FOSTER—Would not the effect of the resolution be to prevent the introduction of any ordinances?

MR. CUNNINGHAM—Certainly not. You may strike out an entire article, or strike out an entire section. Here is what I understand it to be; that hereafter all ordinances proposing to amend the Constitution shall contain only the changes proposed. That is what we mean.

MR. FOSTER—That is what I want to know. If the gentleman will allow me, if a delegate desires to introduce an ordinance re-enacting in exact terms, a section of the present Constitution, he would be out of order under this resolution.

MR. CUNNINGHAM—Re-enacting in exact terms? I think he would be out of order.

MR. FOSTER—I make the point of order, Mr. President, that you cannot limit the legislative right of the delegates on this floor.

MR. WILLETT—I second the point of order.

MR. FOSTER—The introduction of an ordinance is a legislative right of the delegates. You cannot trammel them in that way as to how they will proceed—

MR. CUNNINGHAM—In answering the point of order, I believe I have a right

THE CHAIR—I did not hear the point of order.

MR. FOSTER—The point of order is this; that the introduction of ordinances is the legislative function of the delegate and you cannot by this rule, prevent the introduction of any ordinance by any delegate, no more than you can prevent by rule adopted by the legislature, the introduction of a bill by a member into the legislature.

THE PRESIDENT—The chair would rule that the adoption of this rule would not prevent any delegate from introducing any ordinance he might see proper.

MR. WILLETT—Mr. President—

MR. CUNNINGHAM—The gentleman from Hale yielded the floor to me to give my understanding of this rule, and I, of course, leave the floor to the member from Hale.

MR. deGRAFFENREID—Mr. President, I made a motion that these amendments be laid upon the table. It was seconded by Mr. O'Neal of Lauderdale. Mr. O'Neal has introduced this resolution, and he has requested that I withdraw that motion for the purpose of allowing him to be heard by the Convention, and I do it, for that purpose.

MR. BROWNE—I ask the gentleman for leave to make two or three minutes remarks on the subject, in answer to the gentleman from Jefferson.

Leave was granted.

MR. BROWNE—Mr. President, the gentleman from Jefferson asked a question that I do not think has been entirely answered, and that is whether or not this resolution will cut off the right to introduce an ordinance on an entirely different subject from those already embraced in the present constitution. It certainly would not have the effect of cutting off such right. He would then simply introduce an ordinance to amend the constitution of Alabama, by adding thereto a separate article upon a separate subject, if it was necessary to have a separate article. If the amendment would not properly come under any of the present sub-divisions of the constitution, he would simply offer an ordinance to amend the whole constitution by adding a separate article, upon a separate subject.

Mr. President, the reason for this resolution is simply for the purpose of putting the delegates upon notice that in writing an amendment to the same section of the same article, it is unnecessary for them to re-write the other sections of the same article.

MR. WHITE—I desire to ask the gentleman from Talladega, have'nt we exactly that right now?

MR. BROWNE—We have that right now, except—

MR. WHITE—That he does not know it. (Laughter.)

MR. BROWNE—But I will state for the information of the gentleman, that a great many delegates are writing amendments to certain sections, and for the purpose of amending certain sections are re-writing the whole article, when it is entirely unnecessary, but even after the adoption of this resolution if any delegate is so fond of writing that he still desires to re-write the whole article as well as the section he proposes to amend, he can still do so.

MR. WILLETT—What is the object then of the adoption of the report of the Committee on Rules?

MR. BROWNE—Simply for the purpose of allowing all delegates to understand it is not necessary, and with the hope that we will not have more than one hundred ordinances here retaining the rate of State taxation at three-quarters of one per cent—

MR. O'NEAL (Lauderdale)—The resolution I have offered has been very fully explained to the convention by the delegates from Mobile and Hale. I certainly would not have offered it if it was susceptible of the construction given to it by the gentleman from Jefferson. The resolution as will be seen by reading, very carefully and explicitly saves and excepts the right to change, amend, or alter the constitution in any particular. Any delegate can alter, or amend, or add to the present constitution in any respect that he sees proper. As we know, it is apparent to every delegate of this convention who has listened to these ordinances which have been read for the past week, that a large number of them have been simply repetitions of the present constitution. The purpose of this resolution was to prevent this unnecessary consumption of the time of the convention. The purpose of this resolution was to offer to the convention a basis for action, to that it would be understood that every provision of the present constitution was a law until it was changed, altered or amended by this convention.

MR. LONG (Walker)—Would not the adoption of that resolution have the effect of disfranchising the members of this convention? (Laughter.)

MR. O'NEAL (Lauderdale)—It would not have any such effect. Any member of this convention could offer any resolution or ordinance that he saw proper. If he desires, as the gentleman from Talladega has suggested, to repeat word for word the language of the present constitution, why there could be no objection, except on the ground of bad taste. In South Carolina and in other States where recent constitutions have been framed, this is the plan that was adopted.

MR. CARMICHAEL (Colbert) — Several of the members would like to hear the resolution read which was offered by the gentleman from Lauderdale.

The resolution was read again.

MR. O'NEAL (Lauderdale)—As I was proceeding to observe—in South Carolina, and other States where conventions have recently been held, the proceedings of those bodies will show that a vast amount of time has been saved by obviating the necessity of repeating in the resolutions and ordinances which have been adopted, the provisions of the constitutions of those States. For instance in South Carolina, the amendments have been made simply as suggested by the gentleman from Jefferson, by striking out, or by adding certain words, or expressions, in certain sections

of the constitution, but we have for the past few days sat here and listened to the reading of the constitution of Alabama, section by section, and clause after clause, without a single change being made. Now the act, under which this constitution was called ——

MR. WALKER—Am I correct in understanding that the purpose of the Rules Committee is simply for the purpose of getting rid of the difficulty and waste of time in the introduction of repetitions of the present constitution.

MR. O'NEAL (Lauderdale)—Certainly, that is the purpose.

MR. WALKER—Well, I desire to ask the further question, if that cannot be accomplished by some such rule as this,—that the Convention will not receive or consider ordinances or propositions merely repeating articles, sections or provisions of the president Constitution, without going further and adopting the anomalous parliamentary proceedings of adopting provisions before they have been revised, and of leaving the revision and amendments subsequently to be made.

MR. O'NEAL (Lauderdale)—I understand that is accomplished by the resolution which the Committee on Rules has reported. I do not think it anomalous.

MR. WALKER—My question is, is it necessary to accomplish that object to go through the form of adopting the Constitution as a whole before it has been revised and amended, as we are directed by the people to do.

MR. O'NEAL (Lauderdale)—We adopt it subject to such amendments and alterations as this Convention may see fit to make. We do not adopt it as the Constitution, but adopt it as stated subject to any changes or alterations or amendments that we desire to make.

MR. DUKE—Under the call for this Convention, and the act calling it, isn't it to revise and amend the present Constitution, and does not the present Constitution, in fact, hold good as it stands, and if that is so, what is the necessity of your rule?

MR. O'NEAL (Lauderdale)—If that is so, I would like to know what is the objection to it.

MR. DUKE—Simply because it is passing a rule allowing us to do something that we have a right to do.

MR. O'NEAL—The purpose of the resolution was to call the attention of the Convention to the fact that it was unnecessary to introduce any article or section of the present Constitution for adoption.

MR. DUKE—Then I ask the gentleman what is the use of calling the attention of the Convention to something that the Convention is presumed to know.

MR. O'NEAL—Well, the action of certain members of the Convention, in sending up ordinance after ordinance, repeating the provisions of the present Constitution, seems to indicate that some members do not recognize that such is the law.

MR. DUKE—Then I ask the gentleman if we are responsible for their ignorance?

MR. REESE—I desire to ask the President of this Convention that in the event of the adoption of the resolution reported by the Committee on Rules, whether any amendment or substitution by striking out, or otherwise, can be passed by a mere majority vote, or do the rules of this body require any other vote than a majority vote.

THE PRESIDENT—You ask that question of the gentleman from Lauderdale.

The question was repeated.

MR. O'NEAL (Lauderdale)—Not at all. A majority can act in the matter.

MR. BLACKWELL—Mr. President, I desire to ask a question.

MR. O'NEAL (Lauderdale)—Let me answer the questions that have already been been asked before answering you.

MR. PILLANS (Mobile)—Mr. President, will not the object of the Committee on Rules be reached by some such resolution as this: "That it is the sense of this Convention that all ordinances hereafter offered, shall be confined to statement of new matter offered without unnecessary repetition of the existing Constitution."

MR. O'NEAL (Lauderdale)—That is practically the same thing. I am willing to accept that as a substitute.

Now, Mr. President, a gentleman asked me a question a few minutes ago, as to whether the present Constitution was not the Constitution of the State that bound us. The act says, "that said Convention shall continue in session until it shall, by careful revision and amendment of the present Constitution, frame and adopt a revised Constitution of the State."

The act is based upon the idea that the present Constitution is a law, which remains in force until we revise and amend it. It does not authorize us to make an entirely new Constitution, but directs us to revise and amend the present Constitution. Now, I am of the opinion that we have the power, being called here, to amend and change the Constitution, to make an entirely new Constitution in every respect if we see proper. There cannot be any question as to that proposition. Now the substitute offered by the gentleman from Mobile covers substantially the resolution

as offered by myself, but if in his opinion, or in the opinion of any other gentleman, it makes our purpose more clear or more explicit, I am willing to accept it.

MR. WHITE—You accept that—the resolution offered by the delegate from Mobile?

MR. O'NEAL—Yes sir, I accept it.

MR. WHITE—That's all right.

MR. WILSON (Clarke)—I withdraw the substitute proposed by myself, with the permission of the Committee.

MR. SOLLIE—I call for the reading of the resolution offered by Mr. Pillans.

The resolution was again read.

MR. SMITH (Mobile)—The Rules Committee accepts the amendment.

MR. O'NEAL (Lauderdale)—On the substitute I will call for the previous question.

MR. deGRAFFENREID—I move the adoption of the substitute and the report of the Committee, subject to that change.

THE PRESIDENT—The Committee on Rules, as I understand it, accepts the substitute offered by the gentleman from Mobile, Mr. Pillans, and the question will be on the adoption of the resolution.

MR. deGRAFFENREID—And of the report of the Committee subject to that change.

MR. ASHCRAFT—The resolution comprehends only the idea of amendments to articles of the present Constitution. I have not the proceedings of the Mississippi Convention at hand but I know that that Convention adopted a rule which provided that all ordinances having for their purpose simply the re-enactment of some article or section in the existing Constitution, should simply state the subject matter in the headings and then simply a reference to the article or section by number. Now, if that idea were added to the suggestion of the gentleman from Mobile we would have a complete proposition and I think it would be better since we are acting under rules, for this matter to be recommitted to the Committee on Rules so that they could properly draft a rule, clear and distinct, and expressing the ideas of the Convention as now explained and I, therefore, move that this resolution and substitute be recommitted to the Committee on Rules.

MR. WHITE—I make the point of order that the original resolution is not before the house. It has been withdrawn.

THE PRESIDENT—The point is well taken. The only resolution before the house is the resolution of the gentleman from Mobile (Mr. Pillans) which was accepted by the Chairman of the Committee on Rules.

MR. WILLETT—What is the question before the House?

THE PRESIDENT—The question is on the motion to recommit.

A motion was made to indefinitely postpone the matter.

THE PRESIDENT—That will be out of order because the motion to recommit has precedence of the motion to indefinitely postpone.

MR. OATES—I wish to suggest a point of order. It is suggested that if recommitted, the resolution would not go to the Committee because the Committee has accepted a substitute. Once a report is made and in the possession of the body under consideration, the Committee has not the right to accept a substitute and thereby kill the original proposition. That is for the body itself, and, therefore, the motion to recommit would take all of it back.

THE PRESIDENT—If objection were made they could not accept the substitute.

MR. WHITE—I make the further point of order that it is too late after the Convention has already accepted the proposition of the gentleman from Lauderdale to withdraw it. Then is the time the point of order should be made.

THE PRESIDENT—In the opinion of the Chair, the point of order is well taken.

MR. HEFLIN (Chambers)—The Committee on Rules unless some member objects can accept any substitute and it then becomes part of the report of the Committee and I now move that the report of the Committee on Rules be adopted.

THE PRESIDENT—The question is on the motion to recommit to the Committee on Rules the report as modified by the amendment suggested by the gentleman from Mobile (Mr. Pillans).

A vote being taken on a division that part of the Committee's report was recommitted to the Committee on Rules.

MR. O'NEAL—I move the adoption of the remainder of the Committee's report.

MR. JONES (Wilcox)—I have a resolution which I desire to have read and I move to suspend the rules for that purpose.

THE PRESIDENT—That would not be in order at this time.

MR. JONES (Wilcox)—It pertains to this matter.

Resolution No. 85, by Mr. Jones of Wilcox.

Resolved, That it is the sense of this Convention that whenever an ordinance is introduced by a member of this Convention merely to add to, amend or alter one or more sections of any article of the present Constitution that only the section or sections so added to, amended or altered be embraced in such ordinance, and that the whole article be not set out in such ordinance.

Referred to Committee on Rules.

A vote being taken the remainder of the report of the Committee on Rules was adopted.

MR. LONG—I was absent when my name was called and I ask the privilege to now introduce a resolution.

THE PRESIDENT—Is there objection?

There was no objection and resolution No. 86 by Mr. Long (Walker), was read as follows:

Whereas, a resolution making an appropriation from the State Treasury of $70 a day for stenographic report of the proceedings of the Constitutional Convention was passed by this body without an aye and nay vote, and

Whereas, There are grave doubts as to the legality of such a proceedings, and

Whereas, the stenographic report as published show many errors, therefore, be it resolved.

That the President of this Convention be, and he is, hereby requested to immediately cancel the contract for stenographic report after paying all the expenses by the State, connected therewith to the date of cancellation.

Referred to Committee on Rules.

MR. LONG (Walker)—I move that that be now taken from the Committee on Rules and placed on its passage and on that I call for the ayes and nays.

THE PRESIDENT—Do you call for a suspension of the rules?

MR. LONG (Walker)—No, sir; it does not require a suspension of the rules to take any resolution from a committee and place it before the house.

THE PRESIDENT—What is your motion?

MR. LONG (Walker)—I move we take that resolution from the Committee on Rules and place it on its passage.

MR. GRAHAM (Talladega)—I make the point or order that that contains two propositions, to take it from the committee and place it on its passage.

THE PRESIDENT—The Chair would rule that the effect of the motion of the gentleman would be to suspend the rules. The regular order would be that it be referred to a committee when read and if that order is to be changed, it can only be done by a suspension of the rules.

MR. LONG (Walker)—Under the rules adopted by the convention a majority of the delegates, 78, or a fraction over 77 can take any resolution or ordinance from any committee and place it before the Committee of the Whole of this house. That is the plain rule.

THE PRESIDENT—That can undoubtedly be done. Undoubtedly any paper can be taken from any committee on motion when it is in order to make the motion when it comes up in the regular order, but that resolution has been referred and it seems to me the regular order now is a continuance of the roll for resolutions, etc.

MR. LONG (Walker)—Then I give notice upon Monday next I shall ask for the Committee on Rules to report that resolution.

THE PRESIDENT—The gentleman will be in order at that time.

MR. MACDONALD—I am requested to ask leave of absence for today, for Mr. Jones of Montgomery.

The leave was granted.

MR. GREER (Calhoun)—This morning I asked leave of absence for Monday. Since then I have received a letter from my daughter saying that my wife is seriously ill and I shall be compelled to ask for indefinite leave.

The leave was granted.

Ordinance No. 171 by Mr. Smith (Autauga) was read as follows:

Ordinance No. 171, by Mr. M. M. Smith (Autauga.)

To fix the salary of Governor.

Be it ordained, That the General Assembly shall have power from time to time to fix the salary of the Governor, Provided, that said salary shall never be less than $4,000 after the time of the present incumbent has expired and the salary of no Governor shall be increased or diminished during his term or after his election.

Referred to Committee on Executive Department.

Ordinance No. 172, by Mr. M. M. Smith (Autauga.)

To amend Section 7 of Article X of the Constitution of Alabama.

Exemptions.

Section 1. Be it ordained by the people of Alabama in convention assembled, That Section 7 of Article X of the Constitution of Alabama be amended so as to read as follows:

The right of exemptions hereinbefore secured may be waived by an instrument in writing and when such waiver relates to realty, the instrument must be signed by both the husband and the wife and attested by one witness; and the General Assembly shall not, in any manner, enact that any part of the exemptions as to personal property shall be exempt from the payment of a debt as to which a waiver has been made.

Referred to Committee on Exemptions.

Ordinance No. 173, by Mr. M. M. Smith (Autauga.)

To exempt cotton mills from taxation.

Be it ordained by the people of Alabama in convention assembled, That the General Assembly of Alabama shall be authorized to exempt from taxation, State, county and municipal, for a period of ten years, all corporations and enterprises for the exclusive manufacture of cotton.

Referred to Committee on Taxation.

Ordinance No. 174, by Mr. Sollie.

Be it ordained by the people of Alabama in convention assembled, That no person shall be eligible to hold any public office or to serve as a juror in Alabama who does not belong to the white race and who is not descended exclusively from the white race and who is not at the time of his election or appointment to such office and has not been for at least one year immediately prior thereto a citizen of the United States and of Alabama.

Referred to Committee on Suffrage and Election.

Ordinance No. 175 by same:

Be it ordained by the people of Alabama in Convention assembled, That Section 38 of Article I. of the Constitution of Alabama be and the same is hereby amended so as to read as follows:

Sec. 38. No educational or property qualifications for suffrage shall be made by law.

Referred to Committee on Suffrage and Elections.

Ordinance No. 176 by same:

Be it ordained by the people of Alabama in Convention assembled, That the right of suffrage is conferred on the following persons only: Males 21 years of age or upwards, who are citizens of the United States and Alabama, or have legally declared their purpose to become citizens of the United States, and who have resided in Alabama at least one year, in the county in which they vote three months, and in the precinct or ward in which they vote thirty days next preceding the time when they vote: who have not been convicted of any crime punishable by death or imprisonment in the penitentiary, or having been so convicted shall have been legally restored to their political rights and who were enlisted soldiers and have served in the land or naval forces, or whose legitimate ancestors or kindred within the fourth degrees of consanguinity were enlisted soldiers and served in the land or naval forces in the war of the Confederacy or some other previous war in which the United States engaged or in the war of the revolution of 1776, or who have become naturalized citizens or whose legitimate ancestor have become naturalized citizens of the United States under the naturalization laws of the United States since the war of the revolution; and who shall have paid in full all poll taxes legally assessed against them after the adoption of this Constitution before they offer to vote.

Referred to Committee on Suffrage and Election.

MR. STUDDARD—I yield my place to Mr. Kyle.

Ordinance No. 177, by Mr. Kyle:

An ordinance to amend the suffrage clause of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, That Article VIII. of the Constitution on Suffrage and Elections be amended so as to provide that all persons entitled to vote under the Constitution and laws of this State, at any of the elections in this State, at the time of the ratification of the amended Constitution shall be entitled to vote under the provisions of the amended Constitution; Provided, that they shall on or before the 1st of January of the year in which they propose to vote, contribute $3 to the public school fund of the State and pay the same to the registrar at the time they register.

It shall be otherwise provided that all young men, citizens of this State, who arrive at the age of 21 years before the 1st of January, 1907, shall be entitled to vote, provided they contribute $3 to the public school fund of this State, to be paid to the registrar each year at the time they register, which shall be before the 1st of January of the year in which they propose to vote.

And it shall be further provided that all young men, citizens of this State, who arrive at the age of 21 years after the 1st of January, 1907, shall be allowed to vote, provided they contribute $3 to the public school fund of this State on or before the 1st of January of the year in which they propose

to vote, and shall pay the said contribution to the registrar at the time they register, and shall be able to read any clause of the amended Constitution, and write their name in a legible hand to the satisfaction of the register.

And it shall be further amended so as to provide that all citizens of other States moving into or becoming citizens of this State after this amended Constitution is ratified, as well as all citizens of foreign birth who have become citizens of the United States by compliance with the naturalization laws of the United States, who desire to vote at any election in this State and are not disqualified by Section 3 of Article VIII of the Constitution, being of the age of 21 years or over, and having resided in the State twelve months, in the County in which they propose to vote, six months; and in the precinct three months, shall be allowed to vote, provided, they have contributed $3 each year to the public school fund of this State, and provided, further, that they can read any clause of the amended Constitution and can write their names in a legible manner to the satisfaction of the Board of Registration.

It shall be further provided that no man shall be allowed to vote at any election in this State who is disqualified under Section 3, Article VIII, of the Constitution, or who is an habitual drunkard or a vagrant; and no man shall be allowed to vote who has not registered before January the first of the year in which he proposes to vote, and has not contributed $3 to the public school fund of the State each year before the first of January of the year in which he proposes to vote, and paid the same to the registrar at the time of registration.

It shall also be provided, that the Tax Collector and Tax Assessor and Circuit Clerk of each County in this State, shall constitute a Board of Registration, and shall open books of registration at the court house of each county in this State, on the first of November of each year, and shall keep registration open until the first of January thereafter of each year, and shall register all voters qualified under the terms of these amended provisions to the Constitution, keeping a record of all classified voters registered in a book kept for the purpose, names of all qualified voters to be reported in alphabetical order, showing beat in which each registered voter entitled to vote resides, his age, place of birth, and his race or nationality.

This book of registration of legal voters shall be filed with the Probate Judge of each County on or before the fifteenth day of January of each year, and it shall be the duty of the Probate Judge of each County to prepare a list of the qualified voters as shown by the book of registration, for each beat in the County, which the Probate Judge shall cause to be posted at the polling places in the respective beats on the day before any election is to be held. And a copy of such registration list, properly certified, shall be furnished the judges of election at each voting place in the County on or before the days of the election.

The Registrar shall, on or before the fifteenth day of January of each year pay over to the County Superintendent of Education all moneys received as contributions to the public school funds from parties registering, to be disposed of by the County Superintendent as the law may provide.

The legislature shall have power by law to provide for the carrying out of these amended provisions as to suffrage, and shall provide for such compensation as will be just and equitable to the Board of Registration and officers of the election.

The contribution on the part of the voters shall in nowise interfere with the assessment and collection of one dollar ($1) poll tax for school purposes from every citizen of the State from 21 to 60 years of age inclusive.

Referred to Committee on Suffrage and Election.

Ordinance No. 196, by Mr. Oates:

To amend Section 1 of Article XVI of the Constitution by adding thereto a proviso.

Be it ordained by the people of Alabama in Convention assembled: That Section 1 of Article XVI be amended by adding thereto the following proviso, to wit:

Provided, That the acceptance of a second office of profit other than those in this section named, shall in fact forfeit and vacate the first office without any legal proceedings to declare the same.

Referred to Committee on Amending Constitution and Miscellaneous Provisions.

Ordinance No. 178 by Mr. Tayloe:

An ordinance.

Be it ordained by the people of Alabama in Convention assembled, That

The appropriations made by the General Assembly of Alabama for any one fiscal year shall not exceed the sum collected from all sources by taxation in the fiscal year preceding the meeting of the General Assembly making the appropriations. All appropriations shall be paid in the order of time in which they are passed, to the extent of the collections aforesaid, and all that are in excess of such collections shall be void.

Referred to Committee on Legislative Department.

Ordinance No. 179, by Mr. Tayloe (Perry.)

Be it ordained by the people of Alabama in convention assembled.

The committee of each house of the General Assembly whose duty it is to raise revenues for the purpose of paying the expenses of the State Government shall also have control of the appropriations of such revenues, subject, however to the control of the House by which the committee is raised.

Referred to Committee on Legislative Department.

Ordinance No. 180, by Mr. deGraffenreid.

An ordinance to be entitled an ordinance to amend Section 10 of Article VI of the Constitution of the State of Alabama.

Be it ordained that Section 10 of Article VI of the Constitution of 1875 be amended so as to read as follows:

From and after the adoption of this constitution the Judges of the Supreme Court shall receive $5,000 and the Judges of the Circuit Courts and Courts of Chancery shall receive $3,000, per annum for their services, payable monthly; but they shall receive no fees or perquisites, nor hold any office (except judicial offices) of profit or trust under this State or the United States, or any other power, during the term for which they have been elected.

Referred to Committee on Judiciary.

MR. GREER (Perry)—I desire to ask leave of absence for Monday and I would like Mr. Long to defer the matter of the stenographic report until Tuesday.

The leave was granted.

Ordinance No. 181.

An ordinance to amend Section 27 of Article IV of the Constitution of Alabama, relating to signing of bills and joint resolutions by the presiding officer of each house. Be it ordained by the people of Alabama in convention assembled:

That Section 27 of Article IV of the Constitution of Alabama be amended so as to read as follows:

"The presiding officer of each house shall in the presence of the house over which he presides, sign all bills and joint resolutions passed by the General Assembly after the bills shall have been publicly read at length immediately before the signing, and the fact of read and signing shall be entered on the journal."

Referred to Committee on Legislative Department.

Resolution 87, by Mr. Vaughan:

Resolved, That no delegate shall introduce a resolution or ordinance until his name is reached on the roll call except under a suspension of the rules.

Referred to Committee on Rules.

MR. WADDELL—By request I offer an ordinance.

Ordinance No. 182, by Mr. Boone.

An ordinance to add an additional section to the Declaration of Rights.

Police power of the State.

Be it ordained by the people of Alabama in convention assembled, That the exercise of the police power of the State shall never be abridged, or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well being of the State.

See 121 Missouri Reports, page 317.

Referred to Committee on Preamble and Declaration of Rights.

Ordinance No. 183, by Mr. Boone (Mobile):

An ordinance to regulate the organization and classification of cities and towns.

Be it ordained by the people of Alabama, in convention assembled, That the General Assembly shall provide, by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four; and the power of each class shall be defined by general laws, so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. The General Assembly shall also make provisions, by general laws, whereby any city, town or village, existing by virtue of any special charter or local law, may elect to become subject to, and be governed by, the general laws relating to such corporations.

Sec. 2. Any city having a population of more than twenty thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a board of thirteen freeholders, who shall have been for at least five years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election; which board shall, within ninety days after such election, return to the Chief Magistrate of such city a draft of such charter, signed by the members of such board or a majority of them. Within thirty days thereafter, such proposed charter shall be submitted to the qualified voters of such city at a general or special election, and if four-sevenths of such qualified voters voting thereat, shall ratify the same, it shall, at the end of thirty days thereafter, become the charter of such city, and supercede any existing charter, and all special acts of the General Assembly relating to such city, other than law securing and enforcing the payment of the debts of any such city shall supercede any existing charter and amendments thereof. A duplicate certificate shall be made, setting forth the charter proposed and its ratification, which shall be signed by the Chief Magistrate of such city and authenticated by its corporate seal. One of such certificates shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the Judge of Probate for the county in which such city lies, shall be deposited among the archives of such city, and all courts shall take judicial notice thereof. Such charter, so adopted, may be amended by a proposal

therefor published for at least thirty days in two newspapers of said city, and accepted by three-fifths of the qualified voters of such city, voting at a general or special election, and not otherwise; but such charter shall always be in harmony with a subject to the Constitution and laws of the State.

Referred to Municipal Corporations.

Ordinance No. 184, by Mr. Walker:

To fix the term of office of the Chief Justice and Associate Justices of the Supreme Court.

Be it ordained, That the Chief Justice and Associate Justices of the Supreme Court shall be chosen at an election held at the time and places fixed by law for the election of members of the House of Representatives of the Congress of the United States of America, and shall hold office for the term of ten years, and until their successors are elected or appointed and qualified; provided, that the successor of at least one member of the Supreme Court elected at such election in the year 1904 shall be elected in each of the years 1906, 1908, 1910, 1912 and 1914. The Chief Justice and Associate Justices of said court elected in the year 1904 shall draw or cast lots among themselves to determine which of them shall hold office for the terms ending respectively, in the years 1906, 1908, 1910, 1912 and 1914, and until their respective successors are elected or appointed and qualified; the result of such determination to be certified to the Governor by such Chief Justice and Associate Justices, or a majority of them, prior to the first day of January, 1905, and also to be entered upon the minutes of the court. In the event of the failure of the said Chief Justice and Associate Justices to make and certify such determination, the Governor shall designate the terms for which they shall respectively hold office, as above provided, and shall issue his proclamation accordingly.

Referred to Committee on Judiciary.

Ordinance No. 185, by Mr. Walker:

An ordinance to amend Section 17 of Article VI of the Constitution.

Be it ordained, That Section 17 of Article VI of the Constitution be amended so as to read as follows:

Vacancies in the office of any of the judges or chancellors of this State shall be filled by appointment by the Governor; such appointee shall hold his office until the next general election held at least six months after the vacancy occurred, and until his successor is elected or appointed and qualified; and the successor chosen at such election shall hold office for the unexpired term and until his successor is elected or appointed and qualified.

Referred to Committee on Judiciary.

MR. WATTS — Mr. Reynolds (Chilton) is entitled to my place.

Resolution No. 88, by Mr. Reynolds (Chilton):

Be it resolved by the people of Alabama in Convention assembled, that all County officers within this State shall be elected for a term of four years and that they be ineligible to any office in the County within four years after the expiration of their term of office.

Referred to Committee on Executive Department.

Resolution No. 89, by same:

Be it resolved by the people of Alabama in Convention assembled, that a stock law shall not be passed for any community within this State until such question shall have been submitted in an election for that purpose alone, to the people of that community and a majority of the qualified voters shall have, at said election, approved of the passage of such stock law.

Referred to Committee on Legislative Department.

Resolution No. 90, by same:

Be it resolved by the people of Alabama in Convention assembled, that

No person shall be permitted to marry within five years after obtaining a divorce.

Referred to Judiciary Committee.

Ordinance No. 186, by Mr. Weakly:

An ordinance to provide for the organization, classification and government of villages, towns and cities in Alabama.

Be it ordained by the people of Alabama in Convention assembled, that the villages, towns and cities of this State for the purpose of their organization and government shall be divided into five classes. The organization and powers of each class shall be defined and provided for by general laws so that all municipalities of the same class shall possess the same powers and be subject to the same restrictions. To the first class shall belong cities with a population of fifty thousand or more; to the second class shall belong cities with a population of less than fifty thousand and more than twenty-five thousand, to the third class cities with a population of less than twenty-five thousand and more than ten thousand; to the fourth class shall belong towns and cities with less than ten thousand and more than one thousand, and to the fifth class shall belong villages with less than one thousand population.

The General Assembly shall assign the villages, towns and cities of the State to the class to which they respectively belong, and change assignments made as the population of said villages, towns and cities increase or decrease, and in the absence of other satisfactory information as to their population the General Assembly shall be governed by the last preceding Federal census, provided, however, that any village, town or city in Alabama may in the year 1905 and every ten years thereafter cause a census of all the inhabitants of such village, town or city to be taken, and the General Assembly may change the classification of such town or city according to the result of such census.

Referred to Committee on Municipal Corporations.

Ordinance No. 187, by Mr. Weakly (Lauderdale):

An ordinance to permit municipalities in the State of Alabama having more than two thousand inhabitants to establish municipal courts.

Be it ordained by the people of Alabama in Convention assembled, that all cities and towns having a population of two thousand or more may establish minor courts, which shall have exclusive jurisdiction, civil and criminal, in the first instance for the enforcement of city ordinances and of penalties for the violation thereof. Such courts shall have such other or further jurisdiction as may be conferred by the legislature, but they shall not have equity jurisdiction, nor any greater jurisdiction in other respects than is now conferred on justices of the peace.

No one shall be eligible to appointment as judge of such court unless he shall be learned in the law and shall have been duly authorized to practice law in the courts of this State for three years next before the date of his appointment. Such judge shall be subject to the same liabilities, and their judgment and proceedings may be reviewed in the same manner and to the same extent as is now or may be provided by law in the case of justices of the peace.

The judges of such courts shall be appointed by the Mayor, and their term of office shall expire with that of the Mayor appointing them.

Referred to Committee on Municipal Corporations.

Ordinance No. 188, by same:

To limit the indebtedness of the municipal corporations of this State.

Be it ordained by the people of Alabama in Convention assembled. That no village, town or city shall hereafter become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed 7 per cent. of the

assessed valuation of the real and personal property within said city subject to taxation, as shown by the last preceding assessment for State and county purposes; provided, however, that in determining the limitation of the power of such village, town or city to incur indebtedness there shall not be included the following classes of indebtedness, to wit:

(a) Notes, certificates of indebtedness, revenue bonds issued in anticipation of the collection of taxes, unless the same be not paid within two years from the date of their issue; and all notes, certificates of indebtedness and revenue bonds shall be provided for and payable from taxes levied for the year in which they are issued, and shall never exceed the amount of such taxes.

(b) Bonds issued for the purpose of purchasing or otherwise providing for the supply of water or for the construction or installation of sanitary sewers.

(c) Debts created for the preservation of the public health or the public peace.

Second—No city, town or village whose present indebtedness exceeds the limitations herein imposed shall be allowed to become indebted to any further amount, until such indebtedness shall be reduced within such limit; provided, however, that nothing herein contained shall prevent any municipality from issuing bonds in removal of obligations already created and existing.

Referred to Committee on Municipal Corporations.

Resolution No. 91, by Mr. Weatherly:

Whereas, The General Assembly of Alabama did provide for the holding of this Convention by an act entitled "An Act to provide for holding a Convention to revise and amend the Constitution of this State," approved December 11th, 1900; and,

Whereas, In and by Sections 15 to 21 1-2, inclusive, of said act it was provided that certain matters should and that certain matters should not be incorporated in any Constitution which this Convention might adopt, and,

Whereas, The question of whether or not this Convention should be held was duly submitted to the qualified electors of the State under and in accordance with said act, by whom the holding of this Convention was duly approved and this Convention has been duly convened and become organized in accordance with the requirements of said act, now therefore be it

Resolved, That the Judiciary Committee of this Convention be and it is hereby instructed to report to this Convention at an early day to what extent, if any, this Convention is bound by the requirements contained in said Sections 15 to 21 1-2 of said act considered as a merely legislative enactment, independently of the

vote of the qualified electors authorizing the holding of this convention, and also in connection with, and as affected by such vote.

Note—See Jameson on Constitutional Conventions.

Mr. White yielded his turn to Mr. Cornwall.

Ordinance No. 189, by Mr. Cornwall:

Providing for the levying and collecting municipal taxes.

No city or town or other municipal corporation other than is provided for in this article, shall levy or collect a larger or greater rate of taxation in any one year on the property thereof than one-half of 1 per centum of the value of such property, provided that cities having 5,000 or more inhabitants may levy and collect an additional tax of one-half of 1 per centum on the value of such property in addition to the tax of one-half of 1 per centum hereinbefore allowed to be levied and collected.

Referred to Committee on Municipal Corporations.

MR. GRANT—I ask leave of absence for Monday, Tuesday and Wednesday. I have received news that makes it necessary.

The leave was granted.

Ordinance No. 190, by Mr. Cornwall:

To amend Article II. of Section 7 of the Constitution of Alabama.

That Section 7 of Article II. of the Constitution of Alabama be amended by adding thereto the following:

And providing, further, that this Secton shall not apply to the city of Bessemer, which city may levy and collect a tax of one-half of 1 per centum in addition to a tax of one-half of 1 per centum hereinabove allowed to be levied and collected.

Referred to Committee on Municipal Corporations.

Ordinance No. 191, by Mr. Cornwell:

An Ordinance to amend, alter and change, Article II, Sections 1 and 2 of the Constitution of Alabama, 1875, by the substitution therefor of the following article, to wit:

State and County Boundaries.

Section 1. The boundaries of this State are established and declared to be as follows: That is to say, beginning at a point where the 31st degree of north latitude crosses the Perdido river thence east to the western boundary line of the State of Georgia; thence along said line to the southern boundary line of the State of Tennessee, crossing the Tennessee River and into the second intersection of said river by said line; thence up said river to the

mouth of Big Bear Creek; thence by a direct line to the northwest corner of Washington County in this State as originally formed; thence southerly along the line of the State of Mississippi to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido River; thence up the said river to the point of beginning.

Sec. 2. Until changed by the General Assembly as allowed by this constitution, the boundaries of the several counties of this State as heretofore established by law, are hereby ratified and confirmed, and no new county hereafter formed shall contain less than 15,000 inhabitants; nor shall it have less assessed taxable property than $2,000,000, as shown by the last tax returns; nor shall it contain less area than 400 square miles; and it shall be entitled to one or more representatives under the ratio of representation existing at the time of its formation.

Sec. 3. The General Assembly may establish new counties in the following manner: Whenever one-third of the qualified electors within the area of each section of an old county proposed to be cut off to form a new county shall petition the Governor for the erection of a new county, setting forth the boundaries and showing compliance with the requirements of this article, the Governor shall order an election, within a reasonable time thereafter, by the qualified electors within the proposed area, at which election they shall vote "yes" or "no" upon the question of creating said new county; and at the same election, the question of a name and a county seat for such county shall be submitted to the electors.

Sec. 4. If two-thirds of the qualified electors voting at such election shall vote "yes" upon such questions then the General Assembly at the next session shall establish such new county; Provided, no section of the county proposed to be dismembered shall be thus cut off without consent by a two-thirds vote of those voting in such section; and no county shall be formed without complying with all the conditions imposed in this article. An election upon the question of forming the same proposed new county shall not be held oftener than once in four years.

Sec. 5. No old county shall be reduced to less area than 500 square miles, and to less assessed taxable property than $2,000,000 nor to a smaller population than 15,000 inhabitants.

Sec. 6. In the formation of new counties no old county shall be cut within seven miles of its court house building.

Sec. 7. All new counties hereafter formed shall bear a just apportionment of the valid indebtedness of the old county or counties from which they have been formed, taking into consideration the objects secured by such indebtedness and their resultant benefits and value to the old county, and to the section cut off from said old county to form part of the new county.

Sec. 8. The General Assembly shall have power to alter county lines at any time; Provided, that before any existing county line is altered, the question shall first be submitted to the qualified electors of the territory proposed to be taken from one county and given to another, and shall have received two-thirds of the votes cast; Provided further, that the change shall not reduce the county from which the territory is taken below the limits prescribed in Sections 3, 4, and 5 of this article; Provided, that the proper proportion of the existing county indebtedness of the section so transferred shall be assumed by the county to which the territory is transferred.

Sec. 9. No county seat shall be removed except by a vote of two-thirds of the qualified electors of said county voting in an election held for that purpose, but said election shall not be held in any county oftener than once in four years.

Sec. 10. Each county shall constitute one election district, and shall be a body politic and corporate.

Sec. 11. The General Assembly may provide for the consolidation of two or more existing counties, if a majority of the qualified electors of such counties voting at an election held for that purpose shall vote separately therefor, but such election shall not be held oftener than once in four years in the same counties.

Sec. 12. Each of the several beats of this State, with names and boundaries as now established by law, shall constitute a body politic and corporate but this shall not prevent the General Assembly from organizing other beats or changing the boundaries of those already established; and the General Assembly may provide such system of beat government as it shall think proper in any and all counties, and may make special provisions for municipal government and for the protection of chartered rights and powers of municipalities.

Sec. 13. The General Assembly may at any time arrange the various counties into judicial circuits, and into Congressional districts, as it may deem wise and proper, and may establish or alter the location of voting precincts in any county.

Sec. 14. Hereafter no county lines shall be so established as to pass through any incorporated city or town of this State.

Referred to Committee on State and County Boundaries.

Ordinance No. 192, by Mr. Whiteside:

An ordinance to repeal Section 38 of Article I of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, That Section 38 of Article I of the present Constitution be and the same is hereby repealed.

Referred to Committee on Suffrage and Election.

Ordinance No. 193, by Mr. Whiteside:

An ordinance to amended Section 56 of Article IV of the Constitution.

Be it ordained by the people of Alabama in convention assembled, That Section 56 of Article IV of the Constitution be amended so as to read as follows:

Section 56. There can be no law of this State impairing the obligation of contracts by destroying or impairing the remedy for their enforcement; and the General Assembly shall have no power to make valid any contract which was invalid at the time of its execution, except with the consent of all the parties to said contract, and the General Assembly shall have no power to revive any right or remedy which may have become barred by lapse of time or by any statute of this State or to take away any right of action which may accrue to any party in this State, after such has been commenced to enforce such right of action.

Referred to Committee on Legislative Department.

Ordinance No. 194, by Mr. Willett:

An ordinance to require all officers authorized by this Constitution to be elected by the people of the State of Alabama.

Be it ordained by the people of Alabama, in convention assembled, That unless otherwise provided in this Constitution, all the officers created by this Constitutional Convention shall be elected by the people, and the Legislature of the State of Alabama are required to give force and effect to this provision of the Constitution.

Referred to Committee on Executive Department.

Ordinance No. 195 by Mr. Willett:

An ordinance to make the directors of insolvent corporations trustees of the assets of said corporation, for the benefit of all the creditors.

Be it ordained by the people of Alabama, in convention assembled, That the Assets of insolvent corporations shall be in the hands of the directors of said corporation a trust fund, for the benefit of all of the creditors of said corporation.

Referred to Committee on Corporation.

Mr. Williams (Barbour) yielded his turn to Mr. Oates (Montgomery.)

Ordinance No. 196 by Mr. Oates:

To amend Section I. of Article XVI. of the Constitution by adding thereto a proviso.

Be it ordained by the people of Alabama in Convention assembled, That Section 1 of Article XVI. be amended by adding thereto the following proviso, to wit:

Provided, that the acceptance of a second office of profit other than those in this Section named, shall in fact forfeit and vacate the first office without any legal proceedings to declare the same.

Referred to Committee on Amending Constitution and Miscellaneous Provisions.

Ordinance No. 197, by same:

An ordinance to amend Section 6 of Article V. of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, That Section 6 of Article V. be amended so as to read as follows, to wit:

The Governor shall be at least thirty years of age when elected, and shall have been a citizen of the United States ten years, and a resident citizen of this State seven years next before the day of his election and his term of office shall be four years, and until his successor is elected and qualified, he shall not be eligible to succeed himself, in said office, nor to any other office during the term for which he is elected nor until one year after the expiration thereof and he shall receive for his services as Governor a salary of $5,000 per annum.

Referred to Committee on Executive Department.

Mr. Williams (Marengo) yielded his turn to Mr. Espy.

Ordinance No. 198, by Mr. Espy:

An ordinance to authorize railroad companies to exercise the powers of eminent domain.

Be it ordained by the people of Alabama in Convention assembled, That railroad companies shall have the power and are hereby authorized to condemn rights of way over the lands of persons and corporations from any point on their roadbeds to any manufacturing establishment, or plant, or mill, or gin—provided said manufacturing establishment, or plant, or mill, or gin, shall not be more than five miles distant from said road bed; provided further, that due compensation shall first be made to the owner of said lands.

Referred to Committee on Corporations.

Ordinance No. 199, by same:

Be it ordained by the people of Alabama in Convention assembled, That a married woman shall have full power to contract as if she were a femmesole, except that she shall not directly or indirectly become surety for her husband, nor sell, nor convey her property in payment of his debts.

Referred to Committee on Judiciary.

Ordinance No. 200, by same:

An ordinance to regulate the establishment of stock law district.

Be it ordained by the people of Alabama in Convention assembled, That the General Assembly, Boards of Revenue nor Courts of County Commissioners shall not establish any district in which live stock shall be prohibited from running at large unless a majority of the legal voters residing in the district propose to be established so desire; and the desire of said voters shall be ascertained by an election to be held in a manner prescribed by law.

Referred to Committee on Legislative Department.

Resolution No. 92, by Mr. Espy of Henry.

Be it resolved, that the Committee on Rules fix a time in which ordinances shall be introduced and after the expiration of the time so fixed by said Committee, no ordinance shall be introduced by any delegate for consideration by this Convention.

Referred to Committee on Rules.

Ordinance No. 201, by Mr. Williams (Elmore):

To prohibit any change in the Preamble and Article 1, (Declaration of Rights) in the present Constitution of the State of Alabama, exceptions:

Be it ordained by the people of Alabama in Convention assembled, that there shall be no change made whatever in the preamble and Article 1, Declaration of Rights, in this Constitution different from that in the Constitution of 1875, except so far as to be in harmony and consistency with the Constitution framed by this Convention.

Referred to Committee on Executive Department.

Resolution No. 93, by Mr. Williams (Elmore):

Resolution, To provide for a Committee on Pensions for Confederate soldiers: Be it resolved, that the Chairman of the Rules Committee be authorized to appoint a committee of nine of which

Governor William C. Oates shall be Chairman, said Committee to be styled and known as "Pensions Committee for Confederate Soldiers."

Referred to Committee on Rules.

Resolution No. 94, by same:

Resolution, for the appointment of the following standing committees:

Be it resolved, that the Chairman of the Rules Committee appoint three standing committees of nine members each, to wit: A committee on Federal Relations, a Committee on Agriculture, Commerce and Industry, and a Committee on Temperance.

Referred to Committee on Rules.

Ordinance No. 202, by Mr. Wilson (Clarke):

To amend Section 9 of Article VI of the Constitution of Alabama.

Be it ordained by the people of Alabama, in convention assembled, That Section 9 of Article VI of the Constitution of Alabama be amended so as to read as follows:

Sec. 9. There is hereby established in every county in this State, a court of probate, with general and exclusive jurisdiction of the granting of letters testamentary and of administration, and of the final settlement of all estates of decedents, and for orphans' business.

Referred to Judiciary Committee.

Resolution No. 95, by Mr. Wilson (Clarke):

Resolved, That the Secretary of the Convention be and he is hereby, authorized to purchase such blank books, stationery and other necessary supplies as may be necessary for the use of his office.

Referred to Committee on Rules.

Resolution No. 96, by Mr. Wilson (Clarke):

Resolved, That the clerks of the several committees of this convention shall, when not engaged in attendance upon the meetings of their several committees, remain at some convenient place, to be designated by the chairman of the committee, which said clerk serves, at all reasonable hours; and such clerk shall perform such clerical work as may be required of him by the several members of the Committee of which they are clerks.

Referred to the Committee on Rules.

Ordinance No. 203, by Mr. Wilson (Washington):

Be it ordained by the people of Alabama, in convention assembled, That Section 7 of Article V of the present Constitution be, and the same is hereby, abolished, and the following inserted in lieu thereof:

No person who has been elected Governor of this State shall, during the term for which he was elected and for twelve months next succeeding the expiration thereof, hold any other office, civil, or military, either under this State, or any other State or Government; and after the first day of December of 1904 of the United States, except as otherwise provided for in this Constitution.

Referred to Committee on Executive Department.

Ordinance No. 204, by Mr. Wilson (Washington):

Amendment to Section 25 of Article VI.

Be it ordained by the people of Alabama, in convention assembled, That Section 25 of Article VI of the present Constitution be, and the same is hereby amended by adding the following:

That each solicitor shall desire during his term of office, and for twelve months next preceding his election, in a county in which the court of which he is solicitor tries and disposes of indictments presented by the grand jury of the county.

Referred to Judiciary Committee.

Ordinance No. 205, by Mr. Wilson (Washington).

Be it ordained by the people of Alabama, in Convention assembled, that all State and County officers shall be elected, at the same time and places, by a direct vote of the qualified electors of the State. Vacancies created by death, resignation, impeachment, removal from the State or County, or other disability, may be filled by appointment.

Referred to Committee on Executive Department.

Resolution No. 97, by Mr. Winn:

A resolution relating to the form of ordinances submitted.

Be it resolved by this Convention that all ordinances shall relate to but a single article or subject matter in order to the reference of the same to the appropriate committee.

Second. Be it further resolved, That no ordinance offending this rule shall be received or referred.

Referred to Committee on Rules.

Mr. Almon yielded to Mr. Heflin of Randolph.

THE PRESIDENT — The roll call having been completed will not be gone on with until the other order of business is exhausted.

MR. INGE—I ask leave of absence for Monday and Tuesday until 12 o'clock.

The leave was granted.

THE PRESIDENT—The Chair desires to make a statement to the Convention.

MR. LONG (Walker)—At the request of several gentlemen on both sides of the proposition I desire to state that I will not call up the resolution offered by myself to abolish the stenographic report until next Wednesday.

THE PRESIDENT—The Chair in ruling on the point of order made against the motion of the gentleman from Madison ruled that it would not be in order to reconsider the vote whereby this convention decided when it adjourned it would adjourn to meet on Monday. A number of authorities have been examined on this question and the Chair has been unable to find any direct authority on it in any of the books on parliamentary law that have been accessible, but in the opinion of the Chair it would be in the power of this Convention after it has decided and fixed an hour to which to adjourn to reconsider that action if it sees fit to do so and fix another and a different time and the Chair will reverse its ruling made this morning and recognize the gentleman from Madison.

MR. GRAYSON—I have been informed that quite a number of the committees and sub-committees are behind with their work and desire to catch it up and it being very doubtful whether there will be a quorum here tomorrow I withdraw the motion to reconsider.

THE PRESIDENT—The next order of business is the calling of the standing committees.

The call was started.

MR. OATES—I have no idea that any of the standing committees are ready to report and I therefore move to dispense with a further call.

Leave of absence was granted to Mr. Williams (Elmore), also to Mr. Greer (Perry), until Tuesday.

THE PRESIDENT—The next order is report of special committees of which there are none.

Unfinished business. The Chair desires to call the attention to the fact that there is a petition or memorial presented to the

Chair from the Federation of Women's Clubs of Alabama and the Chair desires to know whether the Convention wishes it read.

The reading was called for and it was read as follows:

Report made May, 1901, at convention in Montevallo, to Alabama Federation of Women's Clubs, by Mrs. W. F. Johnston, Anniston, Chairman of Committee on Education, Unanimously adopted by the Federation:

Recognizing the deplorable necessity for education among the masses of the children of the State, and realizing that this necessity can only be met and relieved by the public schools, the Federation of Women's Clubs of Alabama in convention assembled do resolve:

First—That the Constitutional Convention soon to be assembled in the city of Montgomery, be earnestly petitioned to declare in the organic law of the State, that no person shall be eligible to the office of State or County Superintendent of Education who is not sufficiently qualified to stand the examination required by law of applicants for certificates as first grade teachers in the public schools of the State.

Second—That the said Constitutional Convention be petitioned to take such action as may be necessary to allow municipalities, counties and school districts within counties to secure local taxation for public schools within such territory.

Third—That the said Constitutional Convention be petitioned for such action as will provide for and require the erection and proper equipment of suitable and comfortable school buildings in every school district in the State, whether districts by special acts of the General Assembly or under the general school law.

Fourth—That the said Constitutional Convention be petitioned to take such action as will provide for the maintenance of a public school in each school district and neighborhood in the State for at least five months in every year.

Fifth—The said convention be petitioned to take such action as will require every child in the State between the ages of 8 and 16 years to attend upon some school at least three months during each year.

Sixth—That these resolutions be neatly printed for presentation to members of the Constitutional Convention, and that the members of the Women's Clubs in Montgomery be appointed a committee to present them.

THE PRESIDENT—Quite a number of printed copies of this communication are on the desks and at the service of any delegate present.

MR. HOWELL—In courtesy to these ladies, I move that that communication be referred to the Committee on Education.

On a vote the communication was so referred.

MR. WADDELL—Yesterday's stenographic report is dated May 28th.

THE PRESIDENT—That is an error which will be corrected.

MR. ASHCRAFT—Yesterday at the hour of adjournment there was presented and read a communication from the colored citizens of this State. I move that that memorial be referred to the Committee on Education and to the Committee on Suffrage.

The references were made.

The hour for adjournment having arrived, the convention adjourned until Monday at 12 o'clock.

CORRECTIONS

The proceedings of the Eighth Day should be dated May 30th, instead of May 28th.

MR. JACKSON (Cleburne)—At the top of third column, eighth days proceedings, where it reads: "Now, in the language of the distinguished gentleman from Jefferson" should follow "It will give emphasis to the pledges or promises made, to move the suspension of the rules, and put this resolution immediately upon its passage. I move a suspension of the rules and that this resolution be put upon its immediate passage."

TENTH DAY

MONTGOMERY, ALA.,

June 3, 1901.

The Convention was called to order by the President and the proceedings were opened with prayer by the Rev. Mr. Provence, as follows:

O God, our Heavenly Father, King of Kings and Lord of Lords, we come to invoke Thy blessing upon the session of this Convention today. We thank Thee that Thou art a God who cares for the interests of His people. We thank Thee that in all the affairs of life we may look to Thee for guidance, health, blessings and strength. We thank Thee for all the blessings Thou

hast given to us, that life has been so full of Thy mercy and love, that Thou hast taught us in so many ways that Thou art caring for us and that all things work together for good to them that love Thee, and we pray Thee that part of these things may be this session today, that Thy spirit may reign here, that these Thy servants who come from every quarter of our State to transact business of supreme importance to the interests of righteousness and truth and purity in our government may come realizing the great responsibility resting upon them, realizing their need of Divine health and Divine guidance. So may they come looking to Thee for that wisdom that they need. We pray Thee that they may put aside every unworthy motive, everything that would hinder them from doing the right thing and the best thing. So do Thou give them grace and wisdom. Grant that whatever is done may be in accordance with Thy will and for the promotion of Thy glory. We thank Thee for every influence that makes for righteousness, and for that elevation of life of the people of our Commonwealth. We pray Thee to strengthen all these influences and hasten the glad day when Jesus shall reign in every heart. We pray Thy blessing upon every home represented here. Be with those loved ones left behind. May Thy spirit protect and comfort and bless them as it shall protect and comfort and bless those who are here and use us all for Thy glory, and crown our efforts with Thy blessing, we ask in Jesus' name. Amen.

The roll was then called and one hundred and six delegates responded.

MR. TAYLOE—I ask for leave of absence for Mr. Cunningham of Jefferson, and Mr. Greer and Mr. Stewart of Perry.

THE PRESIDENT—Mr. Greer already has leave of absence until Tuesday. Leave of absence is requested for Mr. Cunningham of Jefferson, and Mr. Stewart of Perry. Unless there is objection the leave will be granted.

MR. MERRILL—I ask indefinite leave of absence for Mr. Dent, who is sick. Also leave of absence today and tomorrow for Dr. Winn, on account of the death of a relative.

The leave was granted.

MR. SOLLIE—I would like to get leave of absence for myself for tomorrow.

The leave was granted.

MR. FOSTER—I ask leave of absence for Mr. Coleman of Walker for today.

The leave was granted.

MR. CORNWALL—I desire to ask indefinite leave of absence for Mr. O'Neill (Jefferson).

The leave was granted.

MR. CHAPMAN—I ask leave of absence for the delegate from Choctaw, Mr. Glover, for today.

MR. KIRK—I desire leave of absence for Mr. Spragins of Madison and for Mr. Carmichael of Colbert.

The leaves were granted.

MR. WILLETT—I desire to ask leave of absence for tomorrow and next day.

MR. EYSTER—I desire leave of absence of Mr. Parker of Cullman, for today.

The leave was granted.

MR. DAVIS (DeKalb)—I desire leave of absence for Mr. Carden of Cherokee.

The leave was granted.

MR. HEAD—I desire to ask leave of absence for Mr. Davis of Etowah.

The leave was granted.

MR. JENKINS—I ask leave of absence for tomorrow and next day.

The leave was granted.

MR. WEAKLEY—I desire to ask leave of absence for Mr. Fletcher of Madison.

The leave was granted.

MR. SAMFORD—I desire to ask leave of absence for myself for tomorrow and next day.

THE CHAIR—Leave of absence is asked for by Mr. Samford of Pike. The Chair will express the hope that some of the delegates will remain with us.

The leave was granted.

MR. HODGES—I desire to ask leave of absence for Mr. Proctor for today.

The leave was granted.

MR. SANDERS—I desire to ask unanimous consent to strike from the Sixth Section of Ordinance No. 163 the expression, "thqse who deny the existence of the Deity." That expression was in-

serted in that section by mistake. It commits me to favoring a religious test as a qualification for voting, which I do not favor. It was intended to be inserted in the 11th Section of the ordinance, which prescribes the qualifications for office holders; the idea being that an officer required to take an oath should believe in the existence of the Deity whose name he invokes in the oath of office, but upon reflection and examination, I am of the opinion that the requirement is in the nature of a religious test which is forbidden by Article VI., Section 3 of the Constitution, and I therefore desire unanimous consent to strike the expression out of the ordinance.

THE PRESIDENT—Will the gentleman reduce his proposition to writing. It will be difficult for the clerks to get it correctly, unless it be in writing.

The next order of business is the Report of the Committee on the Journal.

The report of the committee was made by Mr. Wilson (Clarke), Chairman pro tem. The report being read, was adopted.

THE PRESIDENT—Under a resolution adopted by the Convention on Friday which reads: "Resolved That the reading each day of the Journal of this Convention be dispensed with unless the same is demanded by the Convention," the chair will direct the Secretary to dispense with the reading of the Journal this morning.

MR. REESE—I desire to ask for the reading of a resolution, and I ask the unanimous consent of the Convention that it be adopted.

Resolution No. 98, by Mr. Reese:

Resolved, That the privileges of the floor of this Convention be and the same are hereby extended to His Excellency, the Hon. Wm. J. Samford, Governor of Alabama.

MR. REESE—I move a suspension of the rules, and that the resolution be adopted.

Upon a vote the rules were suspended and upon a further vote the resolution was unanimously adopted.

MR. CARMICHAEL (Colbert)—I desire to be recorded as being present.

THE PRESIDENT—The Chair will state that the gentleman obtained leave of absence. I suppose he wishes it revoked.

MR. CARMICHAEL (Colbert)—Yes sir.

THE PRESIDENT—The Secretary will call the roll for the introduction of ordinances, petitions, etc.

MR. PETTUS—The President has kindly yielded his call to me. I desire to offer an ordinance.

Ordinance No. 206, by Mr. Pettus:

Be it ordained by the people of Alabama in Convention assembled, That there shall be in the several counties of the State, courts of record, styled Courts of County Commissioners, to be composed of such members and elected in such manner and for such period, as is, or may be, provided by law.

Be it further ordained That the Legislature shall, by general laws, confer upon the Courts of County Commissioners of the several counties of the State, such further powers of local legislation and administration as the Legislature may from time to time deem expedient.

Referred to Committee on Local Legislation.

MR. ALLEN—I have given my call to the gentleman from Randolph, Mr. Heflin.

Resolution No. 99, by Mr. Heflin (Randolph.)

Resolved, That the Committee on Executive Department are hereby instructed to embody in its report a provision fixing the salary of the Governor of this State at a sum not less than $5,000 per annum, said sum not to be increased nor diminished during his term of office.

The resolution was referred to the Committee on Executive Department.

MR. BAREFIELD—I yield my turn to the gentleman from Dale, Mr. Sollie.

Ordinance No. 207, by Mr. Sollie:

An ordinance adding Section 29 to Article VI of the Constitution of Alabama.

Be it ordained by the people of Alabama in convention assembled, that Section 39 be and the same hereby is added to Article VI of the Constitution of Alabama, so as to read as follows:

Sec. 39. There shall be appointed by the Governor an official stenographer for each Judicial Circuit in Alabama, whose term of office shall be the same as that of judges of the Circuit Court, and whose duties, compensation and removal from office shall be fixed and provided for by the General Assembly.

Referred to the Committee on Judiciary.

THE PRESIDENT—Section 29 is probably meant, as there are only twenty-eight sections to the article in the Constitution.

MR. SOLLIE—Yes, it should be changed.

MR. BEVERS—Mr. President, I yield my call to Mr. Jenkins of Wilcox.

Ordinance No. 208, by Mr. Jenkins (Wilcox.)

To amend Section 1 of Article VIII of the Constitution, pertaining to suffrage and qualifications of voters.

Be it ordained by the people of Alabama in convention assembled, That Section 1 of Article VIII of the Constitution be amended so as to read as follows:

Every male citizen of the United States and every male person of foreign birth, who may have legally declared his intention to become a citizen of the United States before he offers to vote, who is 21 years old or upwards, possessing the following qualifications, shall be an elector and shall be entitled to vote at any election by the people, except as hereinafter provided:

First—He shall be able to read any section of the Constitution of this State, or he shall be a foreign born male person residing here who cannot read the English language, or he shall be the owner of $300 worth of property upon which taxes have been paid, over and above the amount exempted by law from taxation, or he shall be a male person who has served this State or country in the capacity of soldier or sailor in any war since 1845, or he shall be the legitimate descendant of a soldier or sailor who has served his State or country in war since 1845; Provided, that the General Assembly, may as an additional qualification for voting, require of all citizens the payment of an annual poll tax of $2.50, which when collected must be applied exclusively to the public schools of the State; Provided further, the first General Assembly convened after the adoption of this Constitution, may designate by name, such citizens who are debarred from voting under the provisions of this article and may expressly confer upon them the right to vote if such citizens are proven to be of good character and of good standing in their respective communities. The affidavits of at least twelve reliable and responsible citizens must accompany the name of each person asking the right to vote under this provision, stating the facts of good character and good standing of the applicant.

Second—He shall have resided in the county for three months, and in the precinct or ward for thirty days immediately preceding the election at which he offers to vote; provided, that the General Assembly may prescribe a longer or shorter residence in any precinct in any county, or in any ward, in any incorporated city or town having a population of more than 5,000 inhabitants, but in

no case to exceed three months; and, provided, that no soldier, sailor or marine in the military, or naval service of the United States shall acquire a residence by being stationed in this State.

Third—He shall have resided in the State at least one year immediately preceding the election at which he offers to vote.

Referred to Committee on Suffrage and Elections.

MR. BEDDOW—I desire to yield my call to Mr. White of Jefferson.

Ordinance No. 209, by Mr. White:

A proposition to be entitled an ordinance to regulate suffrage and election in the State of Alabama.

Be it ordained by the people of the State of Alabama, in convention assembled, that the following be substituted for Article VIII of the Constitution of Alabama:

ARTICLE ——.

Suffrage and Elections.

Section 1. That every male citizen of the United States who is a citizen of Alabama, twenty-one years old, or upwards, having complied with and not being prohibited by this article from registering or voting, shall be an elector and entitled to vote at any election by the people in any State, county, district or municipal election, or any other election authorized by law when such elector shall be duly registered, when registration is required by law; and shall have resided in the election precinct or ward in which he offers to vote, for one year immediately preceding such election, and possesses either of the following qualifications:

(1) Being under forty-five years old, has contributed the sum of three dollars, and being over forty-five years old, the sum of $1.50, for the benefit of the common public schools in the township or school district in which he resides, and has paid the same to the Probate Judge of the county of his residence on or before the first day of January in A. D. 1902, and on or before the first day of January in each succeeding year thereafter, a like sum, which sum shall not be collectible by law, but if payment is not made within the prescribed time, the elector may qualify under this clause in any succeeding year, by paying on or before the first day of January of the year in which he offers to vote a like sum, for the purpose aforesaid for each year, beginning with the year 1902, and including the year in which he offers to vote.

(2) Or shall have served in the land or naval forces of the United States in any war, or in the land or naval forces of the Confederate States or of the State of Alabama in the war between the States.

Sec. 2. After the year 1910, any person not then a qualified elector of this State shall not become such unless, in addition to the qualifications hereinbefore prescribed, he is able to read and write the English language, or is prevented from doing so on account of physical disability. Provided, however, that from the time this Constitution becomes effective, any male person of foreign birth, twenty-one years old or upwards, who has legally declared his intention to become a citizen of the United States, but has not been naturalized, and who possesses the qualifications prescribed by Clause 1 of Section 1 of this article, and has resided in the election precinct or ward in which he offers to vote for one year immediately preceding said election, shall be entitled to register and vote; provided, he can read and write, but a failure to be able to read and write on account of physical infirmity shall not disqualify such person.

Sec. 3. Any person who is of unsound mind, an habitual drunkard, a vagrant, a gambler, or who has for a valuable consideration, purchased the vote or offered to purchase the vote of any elector, or who, for a valuable consideration, has sold or offered to sell his vote at any election held in this State; and all persons who have been convicted in any court organized under the laws of this State, or of any other State, or of the United States, of a felony, or who have been convicted in any court organized under the laws of this State of any offense involving moral turpitude, shall not be entitled to register or vote.

Sec. 4. Those possessing the qualifications prescribed by this article shall not be denied the right to vote, and those who do not possess the qualifications herein prescribed shall not be allowed to vote at any election by the people of this State.

Sec. 5. The General Assembly shall pass laws, not inconsistent with this article, to regulate and govern elections in this State, and all such laws shall be uniform throughout the State. The General Assembly may, when necessary, provide by law for the registration of electors throughout the State, or in any incorporated city or town thereof, and when it is so provided no person shall vote at any election unless he shall have registered as required by law.

Sec. 6. Those making payments to the probate judges under the provisions of this article, shall, at the time of making such payments, under oath state their names, ages, places of birth, and election precinct or ward in which they reside. The probate judges of the several counties of this State shall make and preserve as a record in their respective offices, an alphabetical list of those making such payments for each precinct or ward in their several counties, giving the names, ages, dates and amounts of payment, places of birth and precincts or wards in which those reside who make such payments; and shall on or before the first day of March in each and every year, make and certify a complete copy of such list to the Secretary of State, who shall file and preserve the same in his office, and shall on or before the day of any election to be held in their respective counties furnish the election officers of each precinct or ward in such county with a certified copy of the list showing payments made for such precinct or ward, and shall be-

fore the day of any election in any city or town in their respective counties, furnish the election officers of such city or town, certified lists of those making such payments for the several precincts or wards thereof.

Sec. 7. All payments made to probate judges under the provisions of this article shall be applied exclusively to the use of the common public schools of the townships or school districts in which the person making such payments reside at the time of making the same.

Sec. 8. It shall be the duty of the General Assembly to enact adequate laws to preserve the purity of the ballot, punish violations of the election laws, to preserve order and secure to the electors the peaceful and uninterrupted discharge of their legal rights as such, and give protection against the evils arising from the use of intoxicating liquors at elections.

Sec. 9. Only persons who are qualified electors under the provisions of this article, shall be allowed to vote in any primary election or to participate in any mass meeting, convention or other method adopted for the purpose of nominating candidates of any political party or faction.

Sec. 10. It shall be the duty of the General Assembly to enact laws governing primary elections, mass meetings, conventions or other methods adopted for the purpose of nominating candidates by any political party or faction, and to punish any dishonest or unfair methods employed in the same, and to punish persons who participate therein who are not qualified electors under the provisions of this article.

MR. LONG (Walker.)—I move that the rules be suspended and that the privileges of this convention be extended to the Hon. William Richardson, member of Congress from the Eighth District of Alabama.

THE PRESIDENT—The question is upon the motion of the gentleman from Walker that the rules be suspended, all in favor—

MR. HEFLIN (Chambers)—I move that the rules be suspended and that the privileges of this floor be extended to the Hon. Hannis Taylor of Mobile also—

THE PRESIDENT—The chair has not put the other motion—

MR. HEFLIN—I move to amend—

THE PRESIDENT—The Chair thinks it is too late to amend.

The vote being taken the rules were suspended.

THE PRESIDENT—Now, it is the opinion of the Chair that the proposition is open to amendment.

MR. HEFLIN (Chambers)—I move to amend the motion by adding the name of Hon. Hannis Taylor of Mobile.

A vote being taken the amendment was carried and a further vote being taken the motion as amended was carried.

MR. HEFLIN (Randolph)—I ask unanimous consent to introduce a resolution.

The consent was given.

The resolution was read as follows:

Resolution No. 100 by Mr. Bulger.

That whereas the convention on last Friday adjourned over until noon today, thereby losing Saturday one entire working day,

That whereas a session of one hour, today, is not long enough to dispose of the business of the convention.

Therefore, be it resolved, That the rules of the convention, as to the hour of adjournment, be suspended and the convention remain in session, today until 2 o'clock p. m.

MR. BULGER—I move to suspend the rules and that that resolution be put on its immediate passage.

A vote being taken the motion to suspend the rules was lost, the vote on a division being 42 yeas, 50 nays.

THE PRESIDENT—The resolution is referred to the Committee on Rules.

MR. OATES—As the convention refuses to entertain that motion, I ask leave of absence for today for Mr. Sloan.

The leave was granted.

MR. WATTS—I ask unanimous consent to introduce a resolution to be referred to the Committee on Rules.

The leave was given and the resolution was read as follows:

Resolution No. 101, By Mr. Watts:

Resolved, That whenever either of the committees heretofore appointed, except the Committee on Rules, on journal, and procuring ministers, is ready to report, the chairman thereof shall hand the said report to the Secretary of the Convention, who shall cause the said report to be printed and a copy thereof placed upon the desk of each member of the convention before the said report is considered.

2. That when any such report comes up for consideration, by the convention each section or paragraph of said report shall be considered separately.

Referred to Committee on Rules.

MR. MACDONALD—I ask leave of absence for Mr. Graham of Montgomery, for today.

The leave was granted.

MR. LOCKLIN—I desire leave of absence for Mr. Morrisette for today.

The leave was granted.

MR. BULGER—I ask leave of absence for Mr. Sorrell of Tallapoosa for a week.

THE PRESIDENT—The delegate from Tallapoosa asks leave of absence for a week for Mr. Sorrell of Tallapoosa. Unless objection is made leave will be granted.

MR. OATES—I don's think any delegate ought to have leave of absence for a week in this Convention unless there is some reason given. I have heard none given, and unless given, I will object.

MR. OATES—The Chair had not announced it.

THE PRESIDENT—I think the Chair followed the custom that we have adopted here, and asked for objections. The request was stated to the Convention; the Chair called for objections, but heard none, and the Chair thereupon stated that the leave would be granted.

MR. OATES—I may be wrong about it, Mr. President, but I do think it is utterly wrong for delegates to this Convention to ask leave of absence for an entire week, without stating the reasons for it.

THE PRESIDENT—The Chair fully concurs with the gentleman from Montgomery, and only regrets the objection was not made in time.

Ordinance No. 210, by Mr. Bethune (Bullock):

To amend the preamble of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, That the preamble of the Constitution be amended so as to read as follows:

We, the people of the State of Alabama, in order to establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the State of Alabama.

Referred to Committee on Preamble and Declaration of Rights.

Ordinance No. 211, by Mr. Bethune (Bullock):

To amend Section 5, of Article XIII. of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, That Section 5 of Article XIII. be amended so as to read as follows:

Sec. 5. That the income arising from the Sixteenth Section fund, the surplus revenue fund, until it is called for by the United States Government, and the funds enumerated in Sections 3 and 4 of this Article, with such other monies to be not less than $300,000 per annum, as the Legislature shall provide by taxation or otherwise, shall be applied to the use, support and maintenance of the public schools, and that this fund shall be apportioned by the Superintendent of Education among the several counties of the State according to the number of children of school age in each county, and the amounts so apportioned to each county together with the poll tax shall be equitably distributed by the County Superintendent of Education among the several public schools or public districts thereof.

Referred to Committee on Education.

MR. BROOKS—Mr. President, I wish to submit an ordinance.

Ordinance No. 212, by Mr. Brooks:

To amend Section 1 of Article XI. of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, That Section 1 of Article XI. of the Constitution be so amended that it shall read as follows:

All taxes levied on property in this State shall be assessed in exact proportion to the value of such property and no tax shall be levied on the unpaid purchase money of real estate, or money lent on real estate and secured by lien on the same under a mortgage, deed of trust, contract or other obligation; provided, however, the General Assembly may levy a poll tax not to exceed $1.50 on each poll which shall be applied exclusively in aid of the public school fund of the county so paying the same.

Referred to Committee on Taxation.

MR. SMITH (Mobile)—Mr. President, I desire to submit a report for the Committee on Rules.

The report was read as follows:

The Committee on Rules have considered the resolutions hereinafter mentioned, and beg leave to report in regard therto as follows:

It returns Resolution No. 22 without action, and recommends that it be referred to the Committee on Education.

It reports, as a substitute for the substitute to Resolution 71, introduced by Mr. O'Neal of Lauderdale, said substitute offered by Mr. Pillans of Mobile and as a substitute for Resolution No. 85, introduced by Mr. Jones of Wilcox, the following, and recommends its adoption by the Convention:

Resolved, That it is the sense of this Convention that the several Standing Committees appointed to deal with and consider proposed amendments, changes and alterations of and additions to the present Constitution, where no change is recommended by the Committee or has been made by the Convention in any article or provision of the present Constitution, shall report said provision of the said Constitution as a part of the new Constitution, to be adopted or rejected as the Convention may determine.

Resolved, First—That ordinances having for their only purpose the re-enactment of Articles or Sections of the present Constitution shall state the subject in the caption and state the number of the Article and Section proposed to be re-enacted, but the re-enacting clause need not set out in extenso the Article or Section to be re-enacted.

Second—That ordinances having for their purpose brief amendments to Sections of the present Constitution shall state the subject in the caption and state the number of the Article and Section to be amended, but the Section amended need not be set out in extenso in the ordinance offered.

It reports, as a substitute for Resolution No. 95, introduced by Mr. Pettus of Limestone, the following, and recommends its adoption by the Convention:

Resolved, That the Secretary, with the approval of the President of the Convention, be and he is authorized to purchase such blank books, stationery and other necessary supplies as may be necessary for the use of his office.

The Committee returns herewith to the Convention the resolutions hereinabove referred to.

MR. SMITH (Mobile.)—I move the adoption of the report.

The motion was carried and the report adopted.

Mr. Browne, Ordinance 213:

Whereas, There is no provision of the Constitution of the United States which requires a State to maintain a system of public education for the children thereof, or prohibits such State from reasonable discrimination between the races in the matter of education, by the appropriation of educational funds between them in proportion to the amounts thereof derived from the taxes paid by the respective races; and,

Whereas, The State of Alabama, together with other Southern States, has, by its constitutional provision requiring a distribution of its educational funds for the equal benefit of both races, without regard to the fact that such funds contributed almost entirely by the white race, displayed an unselfish and generous regard for the welfare of the most humble, ignorant and non-tax paying race within its borders, for whose unfortunate condition it is in no wise responsible, which challenges the admiration of civilization; and, whereas the duty of maintaining and upholding those civil and social institutions, and those principals of republican government, which have made our country a brilliant star in the political firmament of nations, constitutes the "white man's burden" in Alabama; and,

Whereas, By reason of such facts, and the greater and more advanced moral development of the white race, the children thereof require and are entitled to greater educational facilities than is possible under a system which requires that every dollar of education paid by such race shall be equally divided with, and expended for, the children of a non-tax paying race; and,

Whereas, it would be an ungenerous act for the State to withdraw from such ignorant and unfortunate race that support which its generosity has prompted it to grant; and,

Whereas, There is no reason, political or moral, why the white tax paying race should not have the opportunity, through governmental agencies, to make voluntary contributions, in addition to the general educational funds of the State, and within the present constitutional limits of taxation, for the support of separate schools for their own children.

Therefore, be it ordained by the people of Alabama, in convention assembled, That Sections five (5) and seven (7) of Article XI of the Constitution of Alabama be and they are hereby amended to read as follows:

Section 5. No county in this State shall be authorized to levy a larger rate of taxation in any one year, on the value of the taxable property therein than one-half of one percentum; provided, that to pay debts existing at the ratification of this Constitution an additional rate of one-fourth of one percentum may be levied and collected, which shall be exclusively appropriated to the payment of such debts, or the interest thereon; provided, further, that to pay any debt or liability now existing against any county, incurred for the erection of the necessary public buildings, or other ordinary county purposes, or that any hereafter be created for the erection of necessary public buildings, roads or bridges, or maintaining its public schools, any county may levy and collect such special taxes as may have been or may hereafter be authorized by law, which taxes so levied and collected shall be applied exclusively to the purposes for which the same shall have been levied and collected; provided, the rate of any special tax for public roads or for maintaining public schools, the number of years it shall continue and purposes thereof shall have been first submitted to a vote of the property taxpayers of the county, who are qualified electors therein, and shall have been voted for by a majority thereof in numbers, and in value of taxable property, voting at such election; provided, further that any such

special tax for the maintenance of public schools or construction of public roads, may only be levied and collected when it shall not cause a greater rate of taxation than the sum of $1.25 on the $100 of taxable property for all State and county purposes, except the erection of necessary public buildings or bridges; provided, further, that such special tax for public schools shall be appropriated for the benefit of the children of the white race and those of African descent, in proportion as the same shall be derived from taxation of the property owners or held by the two races respectively.

Sec. 7. No city, town or other municipal corporation, other than provided for in this article shall levy or collect a larger rate of taxation, in any one year, on the property thereof, than one-half of one per centum of the value of such property, assessed for State taxation during the preceding year; provided, any such city, town or other municipal corporation may levy and collect such special tax as may be authorized by law for the maintenance of public schools; provided, the same may be so levied and collected when it shall not cause a greater rate of taxation than $1.75 on the $100 of taxable property, for all State, county and municipal purposes, except the erection by counties of necessary public bridges and buildings; and provided, the rate of such special tax, the number of years it shall continue and the purpose thereof, shall have been first submitted to a vote of the property taxpayers of such city, town or other municipal corporation, who are qualified electors therein, and voted for by a majority thereof in numbers, and in value of taxable property voting at such election; provided, that for the payment of debts existing at the time of the ratification of the Constitution of 1875, and interest thereon, an additional rate of one per centum may be collected, to be applied exclusively to such indebtedness; and, provided, this section shall not apply to the city of Mobile, which city may levy a tax not to exceed the rate of three-fourths of one per centum to pay the indebtedness of said city existing at the time of the ratification of the Constitution of 1875, and interest thereon; provided, further, that this section shall not apply to the city of Birmingham, which city may levy and collect a tax not exceeding one-half of one per centum in addition to the tax of one-half of one per centum hereinabove allowed, to be levied and collected, such special tax to be applied exclusively to the payment of the interest on the bonds of said city of Birmingham heretofore issued by said city in pursuance of law, and for a sinking fund to pay off said bonds at the maturity thereof.

Referred to Committee on Taxation.

MR. HENDERSON—I ask unanimous consent to introduce a resolution, and that it be referred to the Committee on Rules.

The Chair asked if there was any objection; there being none, the resolution was read:

Resolution No. 102, by Mr. Henderson.

Resolved, That hereafter no member of this convention shall yield his call for the purpose of introducing resolutions and ordinances to any other member, nor shall any other member on the call of his name introduce resolutions or ordinances in the

name of any other member where such other member answered to his name on roll call on any day's session of this convention.

MR. CARMICHAEL (Coffee)—Mr. President,—

MR. BROWNE—I rise to a point of order——

THE PRESIDENT—Mr. Browne introduced an ordinance and the Secretary omitted to call it to the attention of the Chair. The Secretary will read it.

Ordinance No. 214 by Mr. Browne:

Regulating the right to vote.

After the ratification of this Constitution, no one shall be allowed to vote in any election, State, county or municipal, held within this State, who shall not be a male citizen thereof, or, being a foreigner, has legally declared his intention of becoming a citizen thereof, over the age of 21 years, and who shall not possess the qualifications of being able to read and write, unless prevented by physical infirmity alone; provided such qualifications of reading and writing, shall not apply to persons who have served the United States, any State thereof or the Confederate States as a soldier, in any war, nor to any descendent of such soldier or sailor who shall be over the age of 15 years at the time of the ratification of this Constitution.

Referred to Committee on Suffrage and Election.

MR. CARMICHAEL (Coffee.)—This being a legal holiday in this State, I move that this convention do now adjourn, in honor of the memory of Jefferson Davis, the President of the Confederacy.

THE PRESIDENT—The gentleman moves that this convention do now adjourn in honor of the memory of Jefferson Davis—

MR. JONES (Montgomery)—Mr. President, I think we can best honor Mr. Jefferson Davis, and we all do his memory reverence—

MR. REESE—I rise to a point of order. A motion to adjourn is not debatable.

MR. JONES (Montgomery)—The point is well taken.

MR. deGRAFFENREID—The gentleman is out of order, because the hour for adjournment has arrived, and the convention stands adjourned.

THE CHAIR—Before declaring the convention adjourned, the Chair is requested to make some announcements.

After reading of the announcements, the convention adjourned until tomorrow morning at 10 o'clock.

ELEVENTH DAY

MONTGOMERY, ALA.,

Tuesday, June 4th, 1901.

The Convention was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Provence, as follows:

We come to Thee again, Lord of Heaven and Earth. our Heavenly Father. We invoke Thy blessing upon this day's work. We thank Thee for the assurances of Thy care; we thank Thee that Thou hast protected us through the dangers of another night, and brought us together in health and strength again to take up today's duties and today's work. We would not enter upon any path in life without asking Thy help and Thy guidance. So we come to Thee, praying that Thou wouldst direct us in all that we do. Let Thy blessing be upon every act of this Convention. Guide all the committees in their deliberations. Help them to do the right and wise thing; help them to devise plans that shall be for the upbuilding of our State, for its prosperity, not merely material but moral and spiritual. May Thy presence be felt in the heart of each member of this Convention. We pray Thy blessing upon the homes that are represented here; from many and many a place there come representatives to take up this work and to devise laws that shall be for the governing of our State and for the advancement of its interests. We pray Thee to bless those homes; may Thy holy spirit abide with them; may the interests of righteousness, truth and peace be promoted in those homes and here. Guide us all, for Thy glory and use us all for Thy service, for Jesus's sake, Amen.

The roll was then called and one hundred and sixteen delegates responded.

MR. BROWNE—I desire to ask leave of absence for Mr. Graham of Talladega, for yesterday and today. I was requested on last Friday to ask leave yesterday, but the House adjourned in such short order that I did not get the opportunity. I also desire to ask leave of absence for Mr. Graham of Montgomery for today, on account of being engaged in an important case in Court.

The leaves were granted.

MR. DUKE—I ask leave of absence for today for Mr. Heflin of Chambers.

The leave was granted.

MR. BAREFIELD—I ask leave of absence for Mr. Morrisette for today on account of sickness.

The leave was granted.

MR. TAYLOE—Mr. Cunningham of Jefferson, expected to get back this morning and left word to ask leave of absence for today if he was detained on business.

The leave was granted.

MR. COLEMAN (Greene)—Under the rules governing this Convention, the members of the several committees are required to be present during the sittings of the Convention. I desire permission for the Committee on Suffrage and Elections to be excused from attending tomorrow's session. We meet at 9 o'clock and one hour does not give us time to accomplish anything for the advancement of our work. We ask to be excused in order that we may proceed tomorrow with a longer session.

The permission was unanimously granted and the Committee excused from attendance upon tomorrow's session of the Convention.

THE PRESIDENT—The next order of business will be the report of the Committee on the Journal.

The report was read and on motion adopted. It reported finding the journal correct.

THE PRESIDENT—The Secretary will call the roll of delegates beginning where he left off on yesterday, for the introduction of ordinances, etc.

MR. deGRAFFENREID—I rise to a point of inquiry.

THE PRESIDENT—The gentleman will state the question.

MR. deGRAFFENREID—I have forgotten, when it was but it has been some time since, the House ordered the printing of the various standing committees, and the report of the Committee on Rules, with the rules that would govern the body. I have never seen them. I rise to ascertain whether or not that order has been complied with.

MR. BURNETT—Mr. President, I have the rules here.

THE PRESIDENT—The Chair is informed that the rules contained the list of the standing committees, and that they have been placed in the hands of the Doorkeeper to be placed on the desks of the members.

MR. deGRAFFENREID—Since I made the inquiry one has been placed on my desk.

The Secretary proceeded with the call of the roll.

Ordinance No. 215, by Mr. Bulger:

An ordinance to provide for the election of the officers of this State by the people, and to limit the terms of the same.

Be it ordained by the people of Alabama, in convention assembled.

ARTICLE ——.

Sec. 1. That all officers of this State, both State and county, who draw a salary, or who by virtue of their offices, receive fees, shall be elected by the people.

Sec. 2. That all officers who are elected by the people shall hold their offices for a term of four years, and shall be ineligible to a re-election to the first succeeding term; provided, that Section 1 of this article shall not apply to officers of the military nor to clerks to the different departments of the State and county government; and, provided further, that Section 2 of this article shall not apply to Judges of the Supreme Court, Judges of the Circuit Courts, and Chancellors.

Referred to Committee on Executive Department.

Ordinance No. 216, by Mr. Burnett.

An ordinance to amend Section 35 of Article I of the Constitution.

Be it ordained by the people of Alabama, in convention assembled, That Section 35 of Article I, of the Constitution be amended by striking out the whole of the said section and inserting in lieu the following:

Sec. 35. The Federal Union is composed of separate, independent sovereign States, and from the Federal Union there can be no secession of any State.

Referred to Committee on Preamble and Declaration of Rights.

Ordinance No. 217, by Mr. Burns:

An ordinance to limit the authority of the proper officials.

Be it ordained by the people of Alabama, in convention assembled:

Section 1. That no official shall grant, or issue to any female, under the age of sixteen (16) years a license to marry.

Sec. 2. That the General Assembly shall enact laws to prohibit and punish males from having carnal knowledge of females under the age of sixteen years.

Referred to Judiciary Committee.

Ordinance No. 218, by Mr. Burns:

To regulate the establishment of charitable, educational or agricultural institution.

Be it ordained by the people of Alabama, That no charitable, educational or agricultural institution, other than those State institutions now in existence, or provided for in this Constitution, shall be established by this State; except upon a vote of two-thirds of each house of the General Assembly.

Referred to Committee on Education.

Ordinance No. 219, by Mr. Burns:

To prohibit the fixing of prices or hours for laborers.

Section 1. The General Assembly shall not enact any law by which the prices for manual labor or the number of hours per day such labor shall be performed.

Sec. 2. The General Assembly may enact laws for the protection, regulation or prohibition of child labor.

Referred to Committee on Corporations.

Mr. Byars yielded his turn to Mr. Knight.

Ordinance No. 220, by Mr. Knight.

An ordinance to amend Section 3 of Article VIII of the Constitution of Alabama.

Be it ordained by the people of Alabama, in convention assembled, That Section 3 of Article VIII be amended so as to read as follows:

Sec. 3. The following classes shall not be permitted to register, vote or hold office:

First—Those who shall have been convicted of treason, embezzlement, malfeasance in office, larceny, bribery or other crime punishable by imprisonment in the penitentiary, or assault and battery on the wife.

Second—Those who are idiots or insane.

Referred to Committee on Suffrage and Elections.

Ordinance No. 221, by Mr. Cardon:

Be it ordained by the people of the State of Alabama in convention assembled; That Section 1 of Article IV of the present Constitution be so amended as to read as follows:

ARTICLE IV.

Legislative Department.

Section 1. The legislative power of this State shall be vested in a General Assembly which shall consist of a Senate and House of Representatives. Provided, That such General Assembly may authorize the Board of County Commissioners of any county, to put up orders, in the nature of legislative enactments, and under such directions, restrictions and regulations as the General Assembly may deem necessary and sufficient, covering the demands and meeting the requirements of any such county or part thereof. And provided further, that no order as above authorized shall be in conflict with any general law of the State of Alabama.

Referred to Committee on Local Legislation.

Ordinance 222, by Mr. Cardon:

Be it ordained by the people of the State of Alabama in Convention assembled; That, Section 1 of Article VI of the present Constitution be so amended as to read as follows:

ARTICLE VI.

Judicial Department.

Section 1. The judicial power of the State shall be vested in the Senate sitting as a court of impeachment, a Supreme Court and such other inferior courts of law and equity as the General Assembly may from time to time establish, and such persons as may be by law invested with powers of a judicial nature, Provided that the officers presiding over any such inferior court, if the same be a court of record, shall be learned in the law and shall have been a resident, within the territory of the jurisdiction of such county, for a period of one year next preceding his induction into his office.

Referred to Committee on Judiciary.

Ordinance No. 223 by Mr. Carmichael (Coffee).

An ordinance to regulate the amount of money which may be expended by the State for the support of State institutions of learning.

Be it ordained by the people of Alabama in convention assembled, That a new section be added to Article XIII, to read as follows:

Section — The General Assembly shall not establish any new State institution of learning, nor appropriate a greater amount to any State institution of learning already established than was appropriated to said schools by the General Assembly of 1900 and

1901; Provided, that when the amount appropriated for the maintenance of the common schools exceeds $3 per capita according to the latest school census, the provisions of this section may be suspended by a two-thirds vote of the General Assembly for such period as the amount appropriated to the common schools is in excess of $3 per capita.

Referred to the Committee on Education.

Ordinance No. 224, by Mr. Carnathan.

Be it ordained by the people of Alabama in convention assembled; That the General Assembly, Boards of Revenue, or Courts of County Commissioners, shall not establish any district in which live stock shall be prohibited from running at large, unless a majority of the land owners (in fee simple) resident and non-resident in the district proposed to be established so desire. The same to be expressed in an election to be held in a manner prescribed by law.

Referred to Committee on Local Legislation.

Ordinance No. 225, by Mr. Carnathan.

Be it ordained by the people of the State of Alabama in convention assembled that Section 25 of Article VI of the present constitution be and the same is hereby amended; so as to read as follows:

A solicitor for each judicial circuit shall be elected by the qualified electors of said judicial circuit, who shall be learned in the law and who shall, at the time of his election and during his continuance in office reside in the circuit for which he is chosen and whose term of office shall be for six years.

Second—A solicitor for each county shall be elected by the qualified electors of the county for which he is chosen, who shall at the time of his election and during his continuance in office reside in said county and whose term of office shall be for six years.

Third—A solicitor for each city court now established or to be hereafter establshed by law, shall be elected by the qualified electors of the city or county over which the court for which he is elected has jurisdiction, who shall at the time of his election and during his continuance in office reside in said city, and whose term of office shall be for six years.

Fourth—That vacancies created by death, resignation, impeachment, removal from circuit, county or city, or other disability, shall be filled by election of the qualified electors of the circuit, county or city, affected thereby.

Referred to the Committee on Judiciary.

Resolution 103 by Mr. Case:

Whereas, It is truthfully said: "If we would see the foundation laid broadly and deeply on which the fabric of this country's liberties shall rest to the remotest generation, if we would see her carry forward the work of political reformation, and rise the bright and morning star of freedom over a benighted word, let us elevate the intellectual and moral character of every class of our citizens; and, most especially let us imbue them thoroughly with the phinciples of the gospel of Jesus Christ," but how shall we accomplish such reformation for the negro if we afford him no opportunity scarcely for literary culture, thus depriving him of chances for an education, as it were, to a great extent? Such will not only discourage him, but, like an enemy, will turn to injure the white man, because all observation has clearly demonstrated the more any men are enlightened to comprehend virtue, that less likely they are to perpetuate crime, and the better citizens they make.

And, whereas, Several ordinances have been introduced, in this Convention, providing for an unequal distribution of the public school funds of the State between the white students and those of the colored children, and being of the opinion such ordinances are contrary to the spirit of the Federal Constitution, taking into consideration the language of the Fourteenth Amendment to the same, as follows: "No State shall make or enforce any law which shall deny to any person within its jurisdiction the equal protection of the laws." Therefore be it

Resolved, That the Judiciary Committee is hereby respectfully requested at its earliest convenience, to bring in a report stating whether or not such discrimination, as aforesaid, is in violation of the Federal Constitution.

Referred to Judiciary Committee.

MR. LONG (Walker)—Mr. President, I would suggest that that go to the Supreme Court.

MR. CASE—Mr. President, I think it should be referred to Mr. Long—I will withdraw the resolution, Mr. President.

THE PRESIDENT—The ordinance has already been referred to the Judiciary Committee.

MR. ROGERS (Sumter)—I have a resolution I desire to offer, and ask unanimous consent for its consideration.

Resolution No. 104, by Mr. Rogers (Sumter):

Resolved, That whereas, the resolution of the Convention, adopted at an early date its organization that there should be printed for the use and benefit of the delegates, the Constitutions of several designated States, bearing upon the question of suf-

frage; and, whereas, the material for such printing was promptly supplied, and whereas, up to this time said resolution has not been complied with,

Resolved, That the Committee on Schedule, Printing and Incidental Expenses, be instructed not to pay for any such printing, unless, after examination, it be ascertained that the delay was absolutely unavoidable.

Referred to Committee on Schedule, Printing and Incidental expenses.

MR. CHAPMAN—As the ordinances I send to the Clerk's desk purport to amend Article IV. of the Constitution, Legislative Department, I ask that they be referred to the Committee on Legislative Department.

Ordinance No. 226, by Mr. Chapman:

Be it ordained by the people of Alabama in Convention assembled, That Section thirty-one (31) of Article four (IV.) of the Constitution, be amended so as to read as follows, to wit:

Sec. 31. All bills for raising revenue shall originate in the House of Representatives, but the Governor, Auditor, Treasurer and Attorney General shall, before each regular session of the General Assembly, prepare a general revenue bill to be submitted to the General Assembly for its action, and the Secretary of State shall have printed for the use of the General Assembly a sufficient number of copies of the bill to be so prepared, and the Governor shall transmit a copy thereof to the House of Representatives, as soon as it is organized. The Senate may propose amendments to revenue bill.

Referred to Committee on Legislative Department.

Ordinance No. 227, by Mr. Chapman:

Be it ordained by the people of Alabama in Convention assembled, That Article IV. of the Constitution be amended by adding thereto the following Section, viz:

Sec. 57. The General Assembly during every regular session thereof, shall not have power to make appropriations to such an amount as that the aggregate of all appropriations made during the session shall exceed the amount which has been paid into the Treasury of the State during the last preceding fiscal year.

Referred to Committee on Legislative Department.

Ordinance No. 228, by Mr. Chapman:

Be it ordained by the people of Alabama in Convention assembled, That Article four (IV) of the Constitution be amended by adding thereto the following Section, viz:

Sec. 57. The General Assembly during any regular session thereof shall not have power to make appropriations to such an amount as that the aggregate of all appropriations made during the session shall exceed the amount of the estimated income during the current fiscal year from the revenue of the State for the current fiscal year as estimated by the Governor, Auditor and Treasurer of the State.

Referred to Committee on Legislative Department.

Ordinance No. 229 by Mr. Cofer:

An ordinance to be entitled an ordinance to encourage immigration to the State of Alabama.

Be it ordained by the people of Alabama in Convention assembled, That immigration shall be encouraged and shall not be prohibited; that no citizen shall be exiled and that the General Assembly of this State shall pass such laws necessary to encourage immigration to this State and protect the citizens of this State in their public and private rights.

Referred to Committee on Miscellaneous Revisions.

Ordinance No. 230, by Mr. Cofer:

An ordinance to be entitled an ordinance to amend Section 1 of Article XIII of the Constitution of the State of Alabama.

Be it ordained by the people of Alabama, in convention assembled, That Section 1 of Article XIII of the Constitution of the State of Alabama be amended so as to read as follows:

Section 1. A general diffusion of knowledge being essential to the preservation of the rights of the people and the liberties of the citizens, public schools and the means of education shall be forever encouraged in this State; and the General Assembly of this State shall provide a thorough and efficient system of free schools in this State, whereby all the children of this State may receive a good common school education.

Referred to the Committee on Education.

Ordinance No. 231, by Mr. Cofer:

An ordinance to be entitled an ordinance to regulate the representation of the counties of the State of Alabama.

Be it ordained by the people of the State of Alabama, in convention assembled, That the Representatives in the General Assembly of the State of Alabama shall be apportioned among the several counties of this State according to their respective numbers, counting the whole number of persons in each county. But when the right to vote at any election, authorized under the Constitution or laws of the State of Alabama, is denied to any of the male in-

habitants of such county being 21 years of age and citizens of the United States or in any way abridged, except for the participation in rebellion or the commission of infamous crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such county. Provided, further, that the members of the State Senate shall be elected from Senatorial Districts established upon the basis of representation herein prescribed and above set out and defined.

Referred to Committee on Representation.

Ordinance No. 232, by Mr. Cofer:

An ordinance to be entitled an ordinance to regulate the apportionment and appropriation of the school funds of the State to the common public schools of the State.

Be it ordained by the people of the State of Alabama, in convention assembled, That all lands or other property given by individuals, unless otherwise expressed in the donation or appropriated by the State of educational purposes and all estates of deceased persons who die without leaving a will or heir or heirs, and all taxes levied for school purposes, or portion of the general funds of the State which may hereafter be appropriated, shall be appropriated for the equal benefit of the children of the State between the ages of 7 and 18 years of age, attending the common schools of the State, and that said appropriations shall be made so as to operate upon and in favor of all alike without special local rights or benefits, privileges or burdens; and no appropriations shall be made to any special or favorite class or children of special localities, except upon an exact and equal basis and upon the same ratio or proportion as made to all the children in the State.

Referred to Committee on Education.

Ordinance No. 233, by Mr. Craig:

To amend the Constitution of Alabama by an additional "Article."

Be it ordained by the people of Alabama, in convention assembled, That the Constitution of Alabama be amended by adding thereto the following article:

Section 1. The General Assembly is invested with power to enact laws, and is required to provide the same, for the prevention and punishment of "lynching," or death or bodily harm to persons who are not then actually engaged in the perpetration of some infamous crime, by combinations of persons in mobs, or by the concerted action of five or more persons; and,

(2) To present and suppress riots, routs and assemblies that endanger, threaten or disturb the public peace and safety; and,

(3) To prevent and punish conspiracies or agreements between two or more persons or their concerted action to prevent any person or association of people from the full and free right to engage in any lawful pursuit, service, employment or work; and,

(4) To incorporate labor unions and associations, with authority to limit the hours of work, by day or by night, that those persons, of lawful age who shall voluntarily become members thereof shall be required, or permitted, to perform under contract or agreement with any person, corporation or government.

Sec. 2. The General Assembly is empowered and required to enact laws to prevent the employment of children under twelve years of age in any factory or work-shop by any person other than a parent, or the duly and lawfully appointed custodian of the person of such child; and to prevent any person from employing any child within the school age for more than eight months in any calendar year, in any factory or work-shop.

Sec. 3. The General Assembly is empowered and required to enact laws to prohibit and punish all trust agreements, and all associations or combinations or concerted action of persons or corporations for the purpose of controlling the prices of labor, or of employment in any work, business or vocation, and the rates of freight or fares on any railroad or by common carriers or on telegraph or telephone lines, or the control of the rates of premium by insurance companies, or companies that loan money or credit, or the rates of charges of warehouse men, or by dealers in stocks or bonds, unless such persons, associations, or corporations are expressly authorized by act of the Legislature to enter into such trust agreements, associations, concerted action, or combinations.

Referred to Committee on Legislative Department.

Ordinance No. 234, by Mr. Craig:

To amend Sections 1 and 2 of Article I of the Constitution of Alabama.

Be it ordained by the people of Alabama in Convention assembled: That Sections 1 and 2 of Article I of the Constitution of Alabama be amended so as to read as follows, to wit:

Section 1. That all men are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuits of happiness.

Sec. 2. That all persons resident in this State, born in the United States, or naturalized, or who have legally declared their

intention to become citizens of the United States, are hereby declared to be citizens of the State of Alabama.

Referred to Committee on Preamble and Declaration of Rights.

MR. BROOKS—I have been requested to ask leave for the delegate from Montgomery, Mr. Macdonald, who is unavoidably detained in the Supreme Court. This request would have been made earlier but he expected to be here before this time.

The leave was granted.

Ordinance No. 235, by Mr. Craig:

To amend Section 1, Article X of the Constitution of Alabama.

Be it ordained by the people of Alabama in Convention assembled: That Sections 1 and 2 of Article X of the Constitution of Alabama be amended so as to read as follows, to wit:

Section 1. The personal property of any resident of this State to the value of two (2) thousand dollars, to be selected by such resident shall be exempted from sale on execution, or other process of any court issued for the collection of any debt contracted since the 13th day of July, 1868, or after the ratification of this Constitution.

Sec. 2. That every homestead, not exceeding one hundred and sixty acres and the dwelling and appurtenances thereon, to be selected by the owner thereof and not in any city or town or village, or in lieu thereof at the option of the owner, any lot in the city, town or village with the dwelling and appurtenances thereon, owned by any resident of this State and not exceeding the value of two thousand five hundred dollars, shall be exempt from sale on execution or any other process of any court and from administration for the payment of any debt contracted since the thirteenth day of July, 1868, and after the ratification of this Constitution: and in any selection of any homestead in any city, town or village, such exemption must be rendered with reference to value, and may extend to one or more lots, and such lots need not be contiguous to each other. Such exemptions, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of such homestead, by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife to the same. The title to any such homestead shall vest absolutely in the widow and minor children or either of any deceased husband or father.

Referred to Committee on Exemptions.

Ordinance No. 236, by Mr. Craig:

An ordinance to amend Section 15 of Article VI of the Constitution of Alabama.

Be it ordained by the people of Alabama in Convention assembled, that Section 15 of Article VI of the Constitution of Alabama be amended so as to read as follows, to wit:

Section 15. The Chief Justice and Associate Justices of the Supreme Court, Circuit Judges, Chancellors and probate judges shall hold office for the term of eight years and until their successors are elected or appointed and qualified; and the rights of such judges and Chancellors to hold their offices for the full term hereby prescribed shall not be affected by any change hereafter make by law in any circuit, division or County in the mode or time of election; but no such Judge or Chancellor shall be eligible to election so as to succeed himself until after the lapse of one entire term of eight years.

Referred to Judiciary Committee.

Ordinance No. 237, by Mr. Craig:

An ordinance to prescribe the mode and manner in and by which the Governor of this State may exercise the appointing power to office in this State.

Be it ordained by the people of Alabama in Convention assembled:

Section 1. That the General Assembly of this State shall have no power to create any office in this State and confer upon the Governor the appointing power to fill such office or offices; but such office or offices so created shall be filled in the first instances by an election to be ordered and held for that purpose; provided, however, that should the necessity arise for the immediate filling of any such office or offices, the Governor may appoint such office, but such appointment shall be for a period not exceeding sixty days.

Section 2. Be it further ordained, That it shall be the duty of the General Assembly to provide for elections to be held not less than twenty nor more than sixty days from the date of the act creating such office or offices, such elections if State offices, to be held over the entire State, and if local such election to be held in the locality, circuit, district or municipality for which said office or offices are created.

Referred to Committee on Executive Department.

Ordinance 238, by Mr. Craig:

An ordinance to regulate suffrage in this State.

Be it ordained by the people of Alabama in Convention assembled,

Section 1. That all white females residing in this State, over the age of 21 years are hereby declared to be qualified voters under the Constitution and laws of this State; possessing the same rights, qualifications and powers and privileges as male voters, and governed by the same election laws.

Referred to Committee on Suffrage and Elections.

MR. DAVIS (DeKalb)—I introduce a memorial by request, in connection with Ordinance No. 170.

Memorial in connection with ordinance No. 170:

To the Honorable, the Constitutional Convention of the State of Alabama:

With the view of protesting against any interference by your honorable body with the act approved March 5th, 1901, removing the county seat of Shelby County from Columbiana to Calera, and in answer to the "memorial" accompanying the introduction of Ordinance No. 170 into the convention, which ordinance is now in the hands of the Committee on State and County Boundaries, we beg leave to respectfully submit the following:

The location of the county seat of Shelby County has been a bone of contention between the advocates of Columbiana and Calera for the past twenty years. In 1894 (not 1895 as set forth in said memorial) an election was held in the county upon the question, but the law under which it was held failed to provide for a contest or to provide any safe guards against fraud, and the Columbiana advocates being in absolute control of the election machinery they took advantage of the weakness of the law and most unmercifully counted Calera out by all sorts of frauds, such as importing voters, stuffed ballot boxes, and throwing out boxes which were favorable to Calera.

In 1899 an act was passed by the General Assembly—over the opposition of the Columbiana advocates—permitting another election on the question within four years from the passage of said act. This act was well guarded against frauds, particularly the frauds perpetrated in the former election, but it failed to expressly provide that no step should be taken in the meantime to build a new court house at Columbiana. No one supposed that any such effort would be made as it was clearly against the spirit of the last session of the General Assembly the fact came to the knowledge of the Senator and Representative from Shelby County that there was a well defined plan on foot to forestall the election law in force by quietly arranging for the erection of new county buildings at Columbiana as soon as the legislature should adjourn. Upon receiving this information, the correctness of which they did not then and do not now doubt, the Senator and Representatives consulted over the matter and being satisfied that a majority of the people of the county favored Calera as the county seat, they decided to introduce and pass a bill removing the county seat from Columbiana to Calera and proceeded to do so. The bill was regularly introduced, read once by its caption and referred to the Committee on Counties and County Boundaries at the afternoon session of February 26th, the forty-fifth day of the session; on the next day it was reported, read second time and placed

on the House calendar, and on the next day it was, after due notice, called up and put upon its passage, being read third time, and was duly passed by the house. It was sent forthwith to the Senate, as other bills passed at that stage, without engrossment. In the Senate it was read first time and referred to the Committee on Corporations. February 28th the two houses adjourned over to March 2nd, when the bill was reported favorably by the committee, read second time, and placed on the Senate calendar. The two houses again recessed from March 2nd to March 5th, when the bill was called up, read third time and passed at the afternoon session. Later on the same day it was signed by the presiding officers of the two houses in the presence of their respective houses, after its title had been publicly read and the fact entered on the journal. It received executive approval the same day.

It will be seen that the bill went upon the House calendar on February 26th, seven days before the final adjournment of the legislature and that the wholesale aspersions attempted to be cast upon all persons connected with the passage of the bill are without any foundation in fact. While the "Citizens Committee" of Columbiana indulge in much extravagant language touching the passage of the bill, they seem to rely upon the absence of recollection on the part of certain members of the House and upon such want of recollection to base their wholesale charges of fraud.

Among all the letters claimed to have been received from members of the House by the "Citizens Committee," the letter of Mr. Striplin seems to be regarded as alone worth publication Mr. Striplin says: "I don't remember one thing about it." All else that he says is merest conjecture .

The representative states positively that he carried this identical bill with the identical cover now on it to Mr. Striplin, together with a note from Senator Oliver asking its favorable consideration and that he, the representative, saw Mr. Striplin go to members of the committee with the bill in his hand and procure their signatures on the back of the bill with a favorable report.

The removal act, which carefully guards the interests of the county, limits the issue of bonds to $30,000 and the rate of interest to 5 per cent. And requires the redemption of $2,000 of the principal each year by lot at a premium of 5 per cent, thus paying off the bonds with the specified levy of one-eighth of 1 per cent in the fifteen years or less according to the amount issued. So that the indebtedness which may be placed on the county is little more than half the amount estimated by the "Citizens Committee" of Columbiana.

As to the location of Calera, it is far more accessible to a majority of the people of the county than Columbiana, because of the fact that it has railroads leaving it in five different directions, and touching every precinct in the county with the exception of two. Columbiana is far from the geographical centre of the county and still farther from the centre of population in point of accessibility. A glance at the map will aid in demonstrating these facts.

The Senator and Representative emphatically denies that they "had assured the people of the county that they would not introduce any legislation pertaining to the court house." They were not pledged on the question of the removal of the county seat, nor was it an issue in the campaign.

Touching the alleged action of political parties in Shelby County, it is denied that the action taken by certain persons claiming to represent the Democratic and Populist parties at Columbiana was representative of these parties in the county. There was not a quorum of the precincts represented in either case. Nor was the result of the election with the advocates of Columbiana in charge of the machinery any reliable index to the will of the people in regard to the court house question. Moreover, the advocates of Calera do not understand that the subject is one of which the Constitutional Convention will take cognizance.

The advocates of Columbiana have resorted to all possible litigation to strike down the removal act and the question of its validity is now before the Supreme Court, where a decision will no doubt be rendered at an early day.

Wherefore, and for various other reasons, we respectfully submit that it is wholly inexpedient for this honorable body to undertake to nullify said removal act.

Respectfully submitted,

W. R. Oliver,

Senator from Shelby County,

G. B. Deens.

Representative from Shelby County.

State and Counties Boundaries.

MR. LONG (Walker)—I desire to move that this Convention declare that resolution, and all other resolutions relating to the Shelby County Court House, out of order and in the wrong court.

MR. REESE—Mr. President, I make the point of order that that should be referred to the same committee as the other memorial on the same subject.

THE PRESIDENT—Except by suspension of the rules this memorial will be referred to the Committee on State and County Boundaries. Does the gentleman move to suspend the rules?

MR. LONG (Walker)—No, I do not move to suspend the rules, but I think a majority of this Convention certainly have the right to declare resolutions out of order, and that was my motion, that this resolution and all resolutions relating to the Shelby County Court House, be declared out of order by this Convention.

THE PRESIDENT—The present call relates to the introduction of memorials and ordinances. A memorial on the .... day and referred to the Committee on State and County Boundaries. Unless the gentleman moves to suspend the rules, and take this matter up now, the regular order will be to refer it to the same Committee.

There was no motion to suspend and it was so referred.

MR. SMITH (Mobile)—I desire to ask unanimous consent to make a correction of a clerical error in the report of the Rules Committee on yesterday.

Leave was granted.

MR. SMITH (Mobile)—The error consisted in stating that Resolution No. 95 was introduced by Mr. Pettus of Limestone, when it was in fact, introduced by Mr. Wilson of Clarke.

THE PRESIDNENT—The correction will be made, if there is no objection.

MR. deGRAFFENREID—I yield my place on the roll call to Mr. Pitts of Dallas.

Ordinance No. 239, by Mr. Pitts:

An ordinance to fill vacancies in county offices by the Court of County Commissioners.

Be it ordained by the people of Alabama in Convention assembled, That all vacancies in county offices by death, impeachment, resignation or any other cause, shall be filled by appointment of the Court of County Commissioners, until the next general State election, when said vacancies shall be filled by the qualified electors of said county.

Referred to Committee on Judiciary.

Ordinance No. 240, by Mr. Ferguson:

An ordinance to dispense with the necessity of indictment in certain felony cases.

Be it ordained by the people of Alabama in Convention assembled, That the necessity of indictment may be dispensed with in the felony cases of grand larceny, burglary, and receiving stolen property, in like manner as provided for in misdemeanor cases, in Section 9 of Article I. of the Constitution of 1875.

Referred to Committee on Judiciary.

Ordinance No. 241 by Mr. Fletcher:

To amend Section 50, Article IV. of the Constitution by adding the following words at the end of the Section:

But any incorporated city or town shall have the right to alter, change, extend or contract their corporate limits whenever three-fourths of the members of the City Council, or Board of Mayor and Aldermen, shall vote for the same. Said vote to be taken by ayes and nays and spread on the Journal or Minute Book of said city or town.

Referred to Committee on Municipal Corporations.

Ordinance No. 242, by Mr. Fletcher:

Be it ordained by the people of Alabama in Convention assembled, That Section 5 of Article XI. of the Constitution be amended so as to read as follows:

No county in this State shall be authorized to levy a larger rate of taxation, in any one year, on the value of the taxable property therein, than one-half of 1 per centum. Provided, that to pay debts existing at the ratification of this Constitution, an additional rate of one-fourth of 1 per centum may be levied and collected, which shall be exclusively appropriated to the payment of such debts, or the interest thereon. Provided, further, that to any debt or liability now existing against any county, incurred for the erection of the necessary public buildings, or other ordinary county purposes, or that may hereafter be created for the erection of the necessary public buildings or bridges, any county may levy and collect such special taxes as may have been or may hereafter be authorized by law, which taxes so levied and collected shall be applied exclusively to the purposes for which the same shall have been levied and collected, and provided, further, that whenever any city is the county seat of a county, and shall pay one-half or more of the taxes levied and collected by the county for general purposes, it shall be the duty of the County Commissioners or Board of Revenue of said county to pay over to the City Council or Board of Mayor and Aldermen of the city so located each year not less than one-fourth of the revenue collected by taxation upon the property situated and located within the corporate limits of said city, for the use and benefit of the city. But this proviso shall not apply to taxes collected to pay debts, or public buildings, bridges or other ordinary county purposes.

Referred to Committee on Municipal Corporations.

MR. FOSTER—I yield my turn to Mr. Searcy.

Ordinance No. 243, by Mr. Searcy:

Be it ordained by the people of Alabama in Convention assembled, That Section 5, Article IV. of the Constitution be amended by adding the words: Provided, further, no county shall incur

debt or issue bonds to an amount in excess of 5 per cent. of the value of the taxable real estate, as shown by preceding assessment.

This ordinance shall not apply to the refunding of debts or bonds in existence at the ratification of this Constitution, but no county whose indebtedness at the time of ratification of this Constitution exceeds 5 per cent. of the assessed value of the taxable real estate, shall incur any additional indebtedness, so long as its indebtedness equals or exceeds 5 per cent. of the value of its taxable real estate.

Referred to Committee on Taxation.

Ordinance No. 244, by Mr. Searcy:

Be it ordained by the people of Alabama, in convention assembled, That the Treasurer of the State of Alabama may have the right to deposit the funds of the State in such banks and banking institutions doing business in the State, as are selected by the Treasurer, and approved by the Governor and Auditor of the State. Provided, the bank or banks so selected, shall first deposit with the Treasurer of the State of Alabama, Alabama or United States bonds as security for said funds deposited in any bank or banking institution. And at no time shall the funds so deposited in any bank or banking institution exceed the par value of bonds deposited as security. In case of default by any such depository, the Treasurer shall have the right to sell all or a part of bonds so deposited to net an amount to cover said loss or default.

Referred to Committee on Banks and Banking.

Resolution No. 105, by Mr. Searcy:

Resolved, That whereas this convention has made a contract with Mr. Pat McGauly for stenographic reports of the proceedings of the convention, wherein it was agreed to pay said McGauly $70 for each working day of the convention for such stenographic report; and, whereas, there is now no authority in law for the Auditor to draw his warrant on the Treasurer for payment of said stenographer, therefore be it ordained by the people of Alabama in convention assembled, That there is hereby appropriated a sum sufficient to pay whatever shall be due said stenographer according to said contract, and the Auditor is hereby authorized and empowered to draw his warrant on the Treasurer in favor of said stenographer for such sums as shall from time to time be certified to him for such purposes by the President and Secretary of this convention."

Referred to Committee on Rules.

MR. LOCKLIN—I offer an ordinance. Mr. Morrisette of Monroe is the author of this ordinance, and, at his request, I introduce it:

Ordinance No. 245 by Mr. Morrisette.

An ordinance to amend Article VIII of the Constitution by striking out the whole thereof, and inserting the following to provide who shall register, vote and hold office in Alabama.

Section 1. Be it ordained by the people of Alabama, in convention assembled, That every male citizen of this State, and of the United States, native-born or naturalized, not less than 21 years of age, and possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election in this State by the people, except as may be herein otherwise provided.

Sec. 2. He shall have resided in the State of Alabama for one year, in the county six months and in the precinct, ward, or other election district in which he offers to vote, for three months next preceding the election. Provided, that removal from one precinct, ward or other election district, to another in the same county, shall not operate to deprive any person of the right to vote in the precinct, ward or other election district from which he has removed, until three months after such removal; and, provided, that no soldier, sailor or marine in the military or naval service of the United States shall acquire a residence by being stationed in this State.

Sec. 3. Every person offering to vote shall be at the time a legally registered voter as herein prescribed, and in the manner hereinafter provided by law and the General Assembly of Alabama shall enact general registration laws to carry into effect the provisions of this article.

Sec. 4. Every person presenting himself for registration shall be able to read and write any section of the Constitution of the State of Alabama, and of the United States, in the English language; or shall own property in value to the amount of $300, as shall appear from the tax assessment rolls for the preceding year, or for the year in which such person presents himself for registration; and upon which all taxes due at the time shall be paid, if said property be personal; and in either event such person shall be of good moral character, and shall have paid a poll tax of $2 for the year next preceding the election at which he offers to vote, and also the poll tax for the year in which said election is held, provided the same is due. But no male person who served as a soldier or a sailor, or in any capacity in the military or naval service of the United States, or the Confederate States in the civil war between the States, shall be denied the right to register and vote at any election in this State by reason of his failure to possess the educational or property qualification herein prescribed, provided, he shall have registered in accordance with the terms of this Article prior to December 1st, 1910, and shall be possessed of the good moral character herein prescribed, and shall have paid his poll taxes, as herein above prescribed.

Sec. 5. The General Assembly shall provide for the registration of all persons entitled to vote without the educational or property qualifications hereinabove prescribed, and shall on or before the first day of December,

1910, provide for the making of a permanent record of such registration, and all persons so registered shall forever thereafter have the right to vote in all elections by the people in this State, unless disqualified as herein otherwise provided; but all such persons not registered according to law by the first day of December, 1910, shall not be entitled to vote, unless they possess the general qualifications herein prescribed for all electors in this State.

Sec. 6. There shall be established for each county in this State a Board of Election Registrars, to consist of three members, one of whom shall be appointed by the Governor of the State, one by the Judge of the circuit in which such county it is situated, and one of whom shall be elected by the people in the manner prescribed by the Legislature. The term of office of the members composing such Board shall be two years, or until their successors, are duly qualified.

Such county board, or a majority of its members, shall appoint for each precinct, ward or other election district, a registrar, whose duty it shall be to register the voters of such precinct, ward, or other election district, at the time, and in the manner which may be provided by law. His term of office shall be two years.

It shall be the duty of the Registrar appointed by the County Board, to register all male persons, over the age of 21 years, residing in the precinct, ward, or other election district, for which such registrar is appointed, who shall possess the qualifications prescribed in Section 4 of this Article, and who shall make application to be so registered. Such registrar shall make a list of all persons registered by him, and return the same to the County Board of Election Registrars, who shall review the same, either upon their own motion, or upon the application of any person, and such County Board shall have the authority to add to said list the names of any persons possessing the qualifications herein prescribed, whom said precinct, ward or other election district registrar, has failed or refused to register; and such County Board shall also have the authority to strike from said list the names of any persons thereon improperly registered, and who do not possess the requisite qualifications.

Any person aggrieved by the action of said County Board shall have the right to appeal to the next session of the grand jury of said County, whose action, to be determined by a majority of its members, shall be final.

Sec. 7. The following persons shall not be permitted to register as voters, to vote, or to hold public office while their disabilities continue: Those who are idiots, or insane; those who have been convicted of giving or receiving a bribe to influence voters, or any election officer, with reference to any election by the people; those who have been convicted, or who shall have confessed their guilt upon indictment pending, of any offense punishable by imprisonment in the penitentiary, unless their disabilities have been removed according to law.

Sec. 8. All elections by the people shall be by ballot; and all elections by persons in a representative capacity shall be viva voce.

Sec. 9. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, or while going to or returning therefrom.

Sec. 10. The General Assembly shall enact laws, not inconsistent with this Constitution, to regulate and govern elections in this State, and all such laws shall be uniform throughout the State.

Sec. 11. It shall be the duty of the General Assembly to enact adequate laws affording protection against the evils arising from the use of intoxicating liquors at all elections.

Sec. 12. Persons who are not citizens of the United States, and who are not descended from a father and mother belonging to the white race, shall not be eligible to any office under the Constitution and laws of the State of Alabama.

Sec. 13. All persons elected to public office in this State before entering upon the duties of the office to which they have been elected, shall take and subscribe the following oath:

I, ———— do solemnly swear (or affirm) that I will support and maintain the Constitution and Laws of the United States, and the Constitution and laws of the State of Alabama, not inconsistent therewith, and that I will faithfully discharge the duties of my office as ————, so help me God.

Referred to Committee on Suffrage and Elections.

Ordinance No. 246, by Mr. Grayson:

An ordinance to amend Sections 4 and 5 of Article XI of the Constitution.

Section 1. Be it ordained that Section 4 of Article XI be and the same is hereby amended to read as follows:

(Sec. 4.) The General Assembly shall not have power to levy in any one year a greater rate of taxation than sixty-five hundredths of one per centum on the value of the taxable property within this State.

Sec. 2. Be it further ordained that Section 5 of Article XI of the Constitution be amended by adding to the end of said section the words:

And provided, further, That for aiding in maintaining the public turnpikes and roads an additional rate of one-tenth of one per centum may be levied and collected to be applied exclusively to said purposes.

Referred to the Committee on Taxation.

Ordinance No. 247, by Mr. Grayson:

An ordinance to provide for the payment of the public debt.

Section 1. Be it ordained that the General Assembly shall create a sinking fund to provide for the redemption or purchase of the bonds of this State.

Sec. 2. Be it further ordained, that the sum of one hundred thousand dollars be set apart annually out of the funds raised by general taxation together with such other funds as the General Assembly may provide for said sinking fund.

Referred to Committee on Legislative Department.

Resolution by Mr. Grayson:

Resolved. That the official stenographer be required to state the day of the week, as well as the day of the month, at the head of the daily reports.

MR. GRAYSON—It will be a great convenience to delegates in making reference to the proceedings and I move that the rules be suspended and that that resolution be placed on its passage.

A reading of the resolution was called for and the resolution was again read.

THE PRESIDENT — The Chair thinks the resolution will hardly be necessary. The Chair will simply direct the stenographer to follow the suggestion of the delegate.

MR. GRAYSON—If it is the pleasure of the Chair so to do, all right.

THE PRESIDENT — Does the gentleman withdraw the resolution?

MR. GRAYSON—Yes, sir; I withdraw it with that understanding.

Ordinance No. 248, by Mr. Harrison:

An ordinance to limit the issue of bonds or other evidences of debt by cities and towns in this State.

Be it ordained by the people of Alabama in Convention assembled, That after the ratification of this Constitution, no town or city shall issue bonds or other evidences of debt to a greater amount than three per cent of the assessed taxable value of the preperty thereof.

Referred to Committee on Municipal Corporations.

Ordinance No. 249, by Mr. Heflin (Randolph):

Be it ordained by the people of Alabama in Convention assembled, That Section 26 of Article VI. of the Constitution is hereby ratified and confirmed.

Referred to Committee on Judiciary.

Ordinance No. 250, by Mr. Henderson (Pike).

To fix the time for the assembling of the General Assembly.

Be it ordained by the people of Alabama in Convention assembled, That the new Constitution provide that the Legislature shall hold its sessions between the months of February and October, assembling on such date and holding for such length of time as may be fixed by the Convention.

Referred to Committee on Legislative Department.

Ordinance No. 251, by Mr. Henderson (Pike):

Providing for the bonding of State and county officers.

Be it ordained by the people of Alabama in Convention assembled, That all officers of this State and the counties thereof who are required to give bond for the forthcoming of money entrusted to them or for which they may be liable, shall, before entering upon the discharge of their duties, give such bond in some bond or security company authorized by law to engage in such bonding security business in this State. Sheriffs of the several counties to be excepted from this provision.

Referred to Committee on Executive Department.

Ordinance No. 252, by Mr. Henderson (Pike):

Reducing the number of jurors.

Be it ordained by the people of Alabama in Convention assembled, That the number of jurors hereafter drawn to try cases in the courts of this State be reduced to eight, except in capital cases, and that no verdict can be rendered except by unanimous consent.

Referred to Committee on Judiciary.

Ordinance No. 253, by Mr. Henderson (Pike):

To provide for the working of convicts of the several counties of this State.

Be it ordained by the people of Alabama in Convention assembled, That all convicts sentenced to hard labor for any county in this State shall be worked upon the public roads of the several counties, as may hereafter be provided by law; Provided, the Court of County Commissioners or the Board of Revenue of the several counties may hire such convicts to any other county to be worked upon the public roads.

Referred to Committee on Judiciary.

Ordinance No. 254, by Mr. Henderson (Pike):

Providing for the exemption of cotton mills from taxation.

Be it ordained by the people of Alabama in Convention assembled, That Section 6 of Article XI, be amended as follows:

Provided, the General Assembly may, by general law, exempt from assessment and levy for taxation for State, county and municipal purposes, for a period of ten years, cotton mills of not less then ten thousand (10,000) spindles, hereafter constructed, erected and operated in this State.

Referred to Committee on Taxation.

Ordinance No. 255 by Mr. Henderson (Pike):

Regulating and providing for the publication of laws and bills.

Be it ordained by the people of Alabama in Convention assembled, That all laws hereafter passed by the General Assembly and which shall be of a general nature, shall after becoming a law, be published in at least one newspaper in each county of this State as may be provided by law, and all bills of a local nature shall, before being introduced into the General Assembly, be published by one insertion in at least one newspaper in such county or counties as may be affected thereby.

Referred to Committee on Legislative Department.

Ordinance No. 256, by Mr. Henderson (Pike):

To establish a Department of Agriculture.

Be it ordained by the people of Alabama in Convention assembled, That a Department of Agriculture be created and established under the management and control of a public officer, to be known as the Commissioner of Agriculture who must be a practical and experienced agriculturist, and whose salary shall not exceed the sum of $2,000 annually, to be paid monthly.

That all moneys received by the Department of Agriculture from fees for licenses, for sales of fertilizer tags, from fees for registration of lands for sale, or from any source whatsoever, must be paid into the State Treasury monthly, and such moneys must be entered upon the books of the Treasurer to the credit of the general fund of the State; and the expenses of maintaining the Agricultural Department of the State, as well as the salary of the Commissioner of Agriculture, shall be paid out of the general fund of the State, as may be provided by law.

Referred to Committee on Executive Department.

Ordinance 257, by Mr. Henderson.

Amending Section 5 of Article XIII applying to public school fund.

Be it ordained by the people of Alabama in convention assembled; That Section 5 of Article XIII be amended so as to read as follows:

The income arising from the sixteenth section trust fund, the surplus revenue fund, and the funds enumerated in sections three and four of this article, shall be distributed for the equal benefit of the children throughout the State, between the ages of 7 and 21 years, and such other money as the General Assembly shall provide by taxation or otherwise, shall be applied to the support and maintenance of the public schools in such proportion between the children of school age as may hereafter be provided by law.

Referred to Educational Committee.

Resolution No. 106, by Mr. Hinson:

Resolved, That this convention shall not raise, reduce or fix the compensation of any judicial officer of this State. But it shall be made the duty of the legislature to increase the salaries of the justices of the Supreme Court, not to exceed $5,000 per annum, whenever the financial condition of the State will justify such increase.

Referred to Committee on Judiciary.

Resolution No. 107, by Mr. Hinson:

Resolved, That this convention shall not raise, reduce or fix the compensation of any executive officer but it shall be made the duty of the legislature to increase the salary of the Governor, not to exceed $5,000 per annum, whenever the financial condition of the State will justify such increase.

Referred to Committee on Executive Department.

Mr. Hodges—I yield my call to Mr. Weakley of Lauderdale.

Ordinance No. 258, by Mr. Weakley:

To amend Section 4 of Article XI of the Constitution of the State of Alabama.

Be it ordained by the people of Alabama in convention assembled, That Section 4 of Article XI of the Constitution of Alabama be amended so as to read as follows:

4. The General Assembly shall not have the power to levy in any one year a greater rate of taxation than one-half of one percentum on the value of the taxable property within this State, Provided that to pay the interest on or to provide a sinking fund for the payment of the principal of the State debt, and additional tax

of one-fourth of one percentum may be levied and collected in each year, and said additional tax when collected shall be used for no other purpose.

Referred to Committee on Taxation.

Ordinance No. 259, by Mr. Hood:

An ordinance to establish a Court of Appeals and declare the jurisdiction thereby.

Judicial department.

Be it ordained by the people of Alabama in convention assembled:

(1) That a Court of Appeals be and is hereby established to consist of a Chief Justice and at least two associate justices.

(2) That said Court of Appeals shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time, be prescribed by law; Provided, that said court shall have power to issue writs of injunction, habeas corpus, quo warranto and such other remedial writs as may be necessary to give it a general superintendence and control of inferior jurisdiction in all matters and cases in which said court has or would have appellate jurisdiction.

(3) That said Court of Appeals shall have final and exclusive appellate jurisdiction of all appeals of criminal cases and, until otherwise modified or changed by the General Assembly of the State, all common law civil case wherein the amount in controversy does not exceed $1,000, except in actions for the recovery of possession of real property and in cases in which the public revenue of the State, any county municipal corporation or other political subdivision of the State or any county thereof is involved, of which the Supreme Court shall alone have appellate jurisdiction; Provided, that in cases that involve the construction or application of the constitution of the United States the constitution of the State of Alabama, or any law of the United States, or in any case in which the constitutionality of any law of the State of Alabama is drawn in question, or in any case in which the constitution or any law of the State of Alabama is claimed to be in contravention of the Constitution of the United States, in cases in which said Court of Appeals is not unanimous in the rendition of any order or judgment, and in cases in which said Court of Appeals is in conflict with the Supreme Court of this State in the enunciation of any legal principle or proposition of law upon which it bases any order or judgment, any such case may be removed to the Supreme Court of this State for review by that court by a writ of error which may be granted by any justice of said Supreme Court upon application made by the party aggrieved and a proper

and sufficient showing therefor, and the judgment or decree of the Supreme Court in such case shall be final and conclusive.

(4) That said Court of Appeals shall be held at the seat of government and such other places as may be designated and provided by law.

(5) That the justices of said Court of Appeals shall hold office for a term of four years and shall be elected by the qualified voters of the State; Provided, however, that the Governor of the State shall forthwith, upon the adoption of this constitution, appoint a Chief Justice and two associate justices of said court, who shall hold office until the next succeeding State election for the election of State officials, at which election their successors shall be elected by the qualified voters of the State.

(6) That there shall be a clerk of said Court of Appeals who shall be elected by the qualified voters of the State, whose term of office shall be four years and who shall be placed upon a salary, provided be may receive such fees as may be fixed by said Court of Appeals from the date of his appointment until the first meeting of the General Assembly of the State, and provided further that the Governor of the State shall forthwith upon the adoption of this constitution appoint a clerk of said court, who shall hold office until the next succeeding State election for the election of State officials, at which time his successor shall be elected by the qualified voters of the State.

(7) That there shall be a reporter of said Court of Appeals who shall be appointed by said court and whose term of office shall be at the pleasure of said court.

(8) That the salary of the justices of said Court of Appeals shall not be less than $3,600 each per year.

(9) That all laws, and parts of laws not applying to the Supreme Court of the State or to any official thereof, and not inconsistent with this constitution, shall apply to said Court of Appeals and the officials thereof, so far as applicable, until modified or changed by law.

Sec. 2. Be it further ordained, That immediately upon the organization of said Court of Appeals, the Supreme Court shall transfer to said Court of Appeals all cases pending in said Supreme Court of which said Court of Appeals has jurisdiction under this constitution, together with the records and all papers and documents pertaining thereto, unless it be a case in which the Supreme Court has prepared an opinion and is ready to render a judgment. In all such cases the Supreme Court shall have jurisdiction for the purpose of rendering judgments.

Referred to the Committee on Judiciary.

MR. INGE—I yield my call to Judge Robinson:

Ordinance 260, by Mr. Robinson:

To amend Sections 1 and 3 of Article VIII of the Constitution of Alabama.

Be it ordained, That Sections I and 3 of Article VIII of the Constitution of Alabama be amended, so as to read as follows:

1. Every male citizen of the United States who is 21 years old or upwards, possessing the following qualifications, shall be an elector and shall be entitled to vote at any election by the people, except as hereinafter provided: First—He shall have resided in the State at least one year, in the County for three months, and in the precinct or ward for thirty days immediately preceding the election at which he offers to vote: Provided, that the General Assembly may prescribe a longer or shorter residence in any precinct in any county or in any ward in any incorporated city or town having a population of more than five thousand inhabitants, but in no case to exceed three months; and provided, that no soldier, sailor or marine in the military or naval service of the United States shall acquire a residence by being stationed in this State. Second—He shall have paid on or before the first day of January of the year in which he offers to vote, all poll taxes which may be legally required of him for the next two preceding years.

3. The following classes shall not be permitted to register, vote or hold office: First—Those who are disqualified to vote at the time of the adopting of this Constitution. Second—Those who are idiots or insane. Third—Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery selling or for a consideration disposing of his vote in any election authorized by law, the unlawful sale of intoxicating liquors, assault and battery upon the person of his wife or other crime punishable by imprisonment in the penitentiary.

Any person who shall sell or for a consideration dispose of his vote in any State, County, municipal or primary election, held in this State under the laws of this State, shall be guilty of a misdemeanor and on conviction shall be fined not exceeding ten dollars. And justices of the peace, and other officers who are ex-officio justices of the peace, shall have jurisdiction to try persons charged with this offense, concurrent with the circuit, city and county courts. And all persons charged with said offense shall have the same right of appeal and trial by jury as is provided by law for other cases of misdemeanor. And all persons may be required to testify on the trial of such cases, but, if the testimony of any witness discloses the fact that he has committed an offense in connection with the offense charged, no prosecution shall be had against him for said offense.

Referred to Committee on Suffrage and Election.

Resolution No. 108, by Mr. Jones of Hale:

Be it resolved, That whereas the people of Alabama have been living under the present Constitution for the past twenty-five years, and have found and do find, that the said Constitution meets practically all the requirements requisite to the security of life, liberty and property, with the one exception, viz., that the negro is allowed to vote.

And, whereas, the people of Alabama would probably rather bear the ills of the present Constitution than fly to those they know not of—except in the matter referred to.

Be it therefore resolved, That the Committee on Suffrage and Elections be requested and instructed to report to this Convention within the next five days an ordinance or ordinances looking to the disfranchisement of the negro.

Be it further resolved, That this Convention then be allowed five additional days within which to discuss such ordinance or ordinances, so reported by said Committee and that then a final vote shall be taken on such ordinance or ordinances.

Be it further resolved, That after such vote is taken by the Convention that this Convention do then adjourn sine die whether said Convention has agree on a suffrage clause or not.

Referred to the Committee on Rules.

Ordinance No. 261, by Mr. Jones of Montgomery:

An ordinance to promote speedy decision of causes in the Supreme Court.

Be it ordained by the people of Alabama in Convention assembled:

The Governor, whenever so requested by the Judges of the Supreme Court in writing, shall appoint not more than two special justices of said court who shall be commissioned and serve for such time as the judges of the Supreme Court may recommend, for the decision of such cases, submitted prior to their appointment, as the judges of said court may designate; and such special judges shall receive for the time they serve the same compensation as the regular judges of the Supreme Court.

Referred to Committee on Judiciary.

Resolution No. 109, by Mr. Jones (Montgomery):

For an additional section to the declaration of rights, concerning the quarantine and police power.

Resolved, That the Committee on Preamble and Declaration of Rights be directed to report for the consideration of the convention an additional section to the Declaration of Rights, in substance as follows:

That no person shall be compelled to exile himself from the State in time of epidemic or pestilential diseases, to obtain a refuge, if the authorities of any county in the State are willing to receive him in their borders.

Referred to Committee on Preamble and Declaration of Rights.

Ordinance No. 262, by Mr. Jones (Montgomery):

To provide for a Board of Conciliation.

Be it ordained by the people of Alabama, in convention assembled, that a permanent Board of Conciliation, for the adjustment of differences between employer and employes engaged in mining, manufacturing and transportation, or other lawful industry, is hereby constituted, to consist of the Governor, Lieutenant-Governor and Attorney-General, to which may be added in each case coming before it, two citizens of this or some other State of this Union, to be appointed by the Governor. The Board, in its discretion, may propose arbitration before it of any such dispute whenever it deems proper; and, in its discretion, may hear such disputes when requested by either or both parties. In any case submitted, the Board shall pass on the merits and recommend in a written award or finding what ought to be done to adjust such differences. The Board may compel the production of papers and attendances of witnesses, under such rules and regulations as may be prescribed by law. Its judgment, or award, shall be advisory merely, unless both parties have voluntarily submitted the matter to the Board and agreed in advance, in writing, to perform the award.

Referred to Committee on Executive Department.

Ordinance No. 263 by Mr. Jones (Wilcox):

An ordinance to amend Section 3, Article VIII of the Constitution.

Be it ordained by the people of Alabama, in convention assembled, that Section 3, Article VIII, of the present Constitution be amended so as to read as follows:

The following classes shall not be permitted to register, vote or hold office:

First—Those who shall have been convicted of any crime punishable by imprisonment in the penitentiary or of malfeasence

in office, or bribery, or larceny, or embezzlement, or fraud in any election in this State, general, special or primary, or any one who has ever sold his vote or bought the vote of another.

Second—Those who cannot read intelligently, or understand when read to them any section of the Constitution of this State.

Third—Those who have not paid a poll tax of $2.00 on or before the first day of January of the year that such person may offer to register or vote, and also the poll tax that may be due by them for preceding years, if any.

Fourth—Those who are idiots or insane.

Provided, That Subdivision 2 shall not apply to any male citizen of the United States who served in the army or navy of the United States in any war with a foreign power, or in the Indian wars, or in the war between the States, or to any male citizen of the United States who served in the army or navy of the Confederate States in the war between the States nor shall said subdivision apply to the descendants of said persons who served in the army or navy of the United States or of the Confederate States; provided, that after the expiration of ten years from the adoption of this Constitution, the descendants of persons who served in the army or navy of the United States or of the Confederate States, who may offer to register, shall not be permitted to do so unless they can read intelligently or understand, when read to them, any section of the Constitution.

Fifth—There is hereby created a Board of Registrars for every precinct in this State, to consist of three members, each of whom shall be bona fide resident of the precinct in which he is appointed or elected, whose duty it shall be to register such persons in their precincts as may be entitled thereto under the Constitution and laws of this State. Such registrars shall be appointed by the Judge of Probate of their counties, and shall hold their office until the first general election after the ratification of this Constitution. That at such general election the registrars shall be elected for the term of four years, by the qualified voters of their precincts, and no registrar shall succeed himself, or hold any other office, except that of Notary Public or Justice of the Peace, while filling the office of registrar. The Judge of Probate may fill any vacancy in their respective counties in the office of registrar. The registrars appointed in the several counties of this State by the Judges of Probate and those thereafter elected, shall, before entering upon the discharge of their duties, take the official oath as prescribed by this Constitution. The Boards of Registrars in the different precincts in this State shall open books for registering the qualified voters of this State, on the first Monday in February, 1902, and three weeks' notice of said registration must be given in some newspaper published in the county, by the Judges of Pro-

bate of the respective counties in this State. The Boards of Registrars shall not continue the registering of voters longer than fifteen days in February, 1902, and they shall be entitled to such compensation therefor as may be fixed by the Court of County Commissioners of their respective counties. They shall have the right to examine, on oath, any person who may apply to them to register, and also to examine other witnesses on oath as to whether or not the person who makes application to register is legally entitled to do so. Any person who may not be permitted to register by the Board of Registrars of the precinct in which he resides, or by a majority of such board, shall have the right of appeal, at any time, within thirty days thereafter to the Circuit Court of the county of his residence.

Sixth—Neither the State nor the county shall have a lien on the property of any resident of this State for the collection of the poll tax, nor shall the collection of the same be enforced by law.

Seventh—The Commissioners' Courts shall have published in some newspaper in their respective counties, in March, 1902, and every two years thereafter, a certified copy of all registered voters in their respective counties.

Referred to Committee on Suffrage and Elections.

Ordinance No. 264, by Mr. Jones (Wilcox):

An ordinance to amend Section 2, Article X. of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, That Section 2, Article X. of the present Constitution be amended as follows:

That the word "eighty," in the first line of said Section be stricken out, and the words "one hundred and sixty" be substituted therefor.

Referred to Committee on Exemption.

Ordinance No. 265, by Mr. Jones (Wilcox):

An ordinance to amend Section 1 of Article XIII. of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, That Section 1 of Article XIII, of the present Constitution be amended by striking out the word "equal" before the word "benefit" in the second line of said section, and by adding at the close of said section the following words: And such separate schools for the education of the white children, and for the education of the children of citizens of African descent, shall be kept open the same number of scholastic months.

Referred to Committee on Education.

MR. WATTS—I am requested by Mr. Lomax of Montgomery, to ask leave of absence for today and tomorrow on account of his being detained at Tuscaloosa, and for Mr. Macdonald today.

THE PRESIDENT—Leave of absence has been obtained for Mr. Macdonald. Unless there is objection leave of absence will be granted to Mr. Lomax.

MR. KNIGHT—I yield my call to Mr. Rogers (Lowndes).

Ordinance No. 266, by Mr. Rogers (Lowndes):

To amend Section 1 of Article XI. of the Constitution by striking out from and including the words, "provided, however," and adding the following:

There shall be collected from every voter between the age of 21 and 50 years, not exempt by law, a poll tax of $1.50, which shall be applied exclusively in and of the public schools in the counties in which it is levied and collected; the amount collected from citizens of the Caucasion race to be applied to white schools, and the amount collected from citizens of African descent to be applied to the colored schools.

That the said tax shall be paid between the 1st day of January and the 30th day of January of each year and the Tax Collector shall give his certificate to each citizen paying said tax. That no citizen shall be allowed to vote who has not paid said tax who is under 50 years of age, and no exempt by law.

Referred to Committee on Taxation.

Ordinance No. 267, by Mr. Ledbetter:

Be it ordained by the people of Alabama: First—That the office of Examiner of Public Accounts be and the same is hereby continued, said officer being appointed by the Governor.

Second—That in addition to the duties already imposed upon said Examiner he be made State Bank Examiner.

Third—That the General Assembly shall be authorized and directed to prescribe the duties of said Examiner, delegate to him certain powers, and make necessary requirements of State banks.

Fourth—That by State banks is meant any bank, banking company, savings bank or other corporation organized under the laws of the State of Alabama, conducting or doing a banking business.

Referred to Committee on Executive Department.

Ordinance No. 268, by Mr. Ledbetter:

Be it ordained by the people of Alabama in Convention assembled, That Probate Judges shall be elected every four years by the qualified voters of their respective counties and shall not be eligible for re-election to that office or to any other office in their respective counties during a period of two years after the expiration of their term. That the Probate Judges shall receive the fees of their respective offices to the amount of not exceeding $2,500 per annum, and that the fees in excess of this amount shall be turned into the county treasury.

Referred to Committee on Judiciary.

Ordinance No. 269, by Mr. Long (Walker):

Be it ordained by the people of Alabama in Convention assembled, That that Section 6 of Article XI. of the Constitution be amended so as to read as follows:

Sec. 6. The property of private corporations, associations and individuals of this State, shall forever be taxed at the same rate; Provided, this section shall not apply to institutions or enterprises devoted exclusively to religious, educational or charitable purposes. Provided, further, that the General Assembly of Alabama, for the purpose of encouraging cotton manufacturing shall have power to exempt from all State, county or city taxes for a period not exceeding ten years, all new cotton mills, built after the ratification of this Constitution; provided, the land on which the cotton mills are built shall be assessed for taxation at the same rate as the adjoining or contiguous lands.

Referred to Committee on Taxation.

Ordinance 270, by Mr. Long:

An ordinance to prescribe the qualifications of electors and to better provide for fair elections in the State of Alabama.

Be it ordained by the people of Alabama in Convention assembled, that Article VIII of the Constitution be amended so as to contain the following:

Every male citizen of the United States and every male citizen of foreign birth who may have legally declared his intention of becoming a citizen of one of the United States, before he offers to vote, who is 21 years old or upwards, who shall have resided in this State two years and in the County and in the beat, precinct or ward for one year next, immediately preceding the election in which he offers to vote and who shall have paid a poll tax of $1.50 on or before January 1st of the year in which he offers to vote at any election and who shall have paid all taxes, including all poll taxes and all taxes upon real estate or personal property for all years with 8 per cent interest due thereon, and who shall own and pay taxes upon not less than $300 worth of real estate or personal

property and be able to read and write in the English language shall be a qualified elector and may vote in the precinct or ward of his actual residence and not elsewhere, unless disqualified by being convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery or other crime punishable by imprisonment in the penitentiary, or unless an idiot or lunatic; provided, that all men or their male descendants, 21 years of age or upwards who have fought in any of the American or European wars prior to the adoption of this Constitution, shall only be required to pay all poll taxes on or before January 1st of each year as hereinabove set forth, in order to become qualified electors in this State, and only such persons coming under any of the provisions herein above set forth without regard to race, color or previous condition of servitude, shall have a right to vote at any election, State, County or municipal in this State.

That all poll taxes shall be paid to the tax collector in each County in this State and by him turned over to the probate judge of each County on or before the first of January of each year and that the probate judge shall make an alphabetical list by beats, wards or each voting precinct in the County a list of all persons who have paid their poll taxes, which said alphabetical list shall be kept as a book of public record in the office of the judge of probate, and shall be the true registration list of the county for that year and on or before the 20th of January of each year the probate judge shall furnish a copy to the State treasurer a list of all such persons who have paid their taxes for that year, together with all his remittance to cover the same in full. And it shall be the duty of the probate judge to furnish a copy to each of the managers of any election held in this State, whether State, County, municipal, primary or otherwise, a list of all persons residing in the beat, ward or voting precinct who have all paid their poll tax on or before the 1st of January of that year and only those whose names appear upon the list shall be entitled to vote.

At any election held, either primary or otherwise, if any more voters are returned by the managers of any precinct, beat, ward or voting place than appears upon the registration list so furnished them, then the said box shall be invalid and no vote therein contained shall be counted and the manager of said election shall be guilty of a high misdemeanor and be fined not less than $250 nor more than $1,000.

Should any probate judge make a return of any election to any State officer of a greater number of votes than names as contained upon the registration list so made and furnished by him as required by law to the State treasurer, he shall also be guilty of a high misdemeaner and shall forfeit his office, and shall also be fined by any court of competent jurisdiction in a sum not exceeding one thousand dollars.

Referred to Committee on Suffrage and elections.

Mr. Bulger here took the Chair.

Ordinance No. 271, by Mr. Lowe of Jefferson:

Be it ordained by the people of Alabama in Convention assembled, that Section 12 of Article VI of the Constitution be amended so as to read as follows:

The Chief Justice and Associate Justices of the Supreme Court, Judges of the Circuit Court, Probate Courts and Chancellors shall be elected by the qualified electors of the State, Circuits, Counties and Chancery Divisions for which such courts may be established, on the first Tuesday after the first Monday in November, 1904, and on said day and said month every eight years thereafter; provided the legislature may change the time of such election to any other day in said years.

Referred to Committee on Judiciary.

Ordinance No. 272, by Mr. Lowe of Jefferson.

Be it ordained by the people of Alabama in Convention assembled that Section 15 of Article VI of the Constitution shall read as follows:

The Chief Justice and Associate Justices of the Supreme Court, Circuit Judges, Chancellors and Probate Judges shall hold office for the term of eight years, and until their successors are elected or appointed and qualified; and the right of such Judges and Chancellors to hold their offices for the full term hereby prescribed shall not be affected by any change hereafter made by law in any circuit, or county in the mode or time of election.

Referred to Committee on Judiciary.

Resolution 110, by Mr. Lowe:

Resolved, that it is the sense of this Convention, that the State, County and Congressional elections should be held upon the same day. Provided, however, that the General Assembly may prescribe separate and different dates for holding such elections.

Referred to the Committee on Legislative Department.

Resolution 111, by Mr. McMillan:

Be it resolved by this Convention, that it is the sense of this Convention that any ordinance adopted prescribing a poll tax qualification upon the right of suffrage shall include in its provisions a section exempting all officers and men of the Alabama National Guard from its operation.

Referred to the Committee on Taxation.

Ordinance No. 273, by Mr. Parker (Elmore):

To amend Article XVI of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, That Section 1 of Article XVI of the Constitution be and the same is hereby amended to read as follows:

Section 1. No person holding an office of profit under the United States except postmasters, whose annual salary does not exceed $200, shall, during his continuation in such office, hold any office of profit under this State, nor shall any person hold two offices of profit, at one and the same time under this State, whether such offices be created by this Constitution or by legislative enactment.

Be it further ordained that Article XVI be and the same is hereby further amended by adding the following, as Section 2:

Sec. 2. That any person who accepts a second office during the term of an office to which he has been previously elected or appointed, shall, ipso facto, forfeit and vacate such first office, provided that the provisions of this article shall not apply to the offices of Justice of the Peace, Constable, Notary Public and Commissioner of Deeds.

Referred to Committee Amending Constitution and Miscellaneous Provisions.

Resolution No. 112, by Mr. Parker (Elmore):

Whereas, it is the well settled policy of this State that the traffic in vinous, spirituous and malt liquors is a privilege and not a right of the citizen, and whereas, the ample and unrestricted authority of the General Assembly under the present Constitution of Alabama to restrict and police the buying and selling of vinous, spirituous and malt liquors has been in the past, a bulwark of safety to society and the individual citizen against the evils of intemperance:

Now therefore, be it resolved, That it is the sense of this convention that no ordinance shall be adopted that will abridge or destroy the power of the General Assembly of the State of Alabama to restrict, regulate and control the sale of vinous, spirituous and malt liquors.

Referred to Committee on Legislative Department.

MR. OATES—I was called out just at the time my name was called. I ask unanimous consent to offer two resolutions.

Leave was given.

Ordinance No. 274, by Mr. Oates:

Be it ordained by the People of Alabama on convention assembled.

That Article VIII, Section — of the Constitution be amended so as to read as follows:

Section 1. Every male citizen of the United States who is 21 years old or upwards possessing the following qualifications shall be an elector and shall be entitled to vote at any election by the people except as hereinafter provided, First, he shall have resided in the State one year, in the county three months, and in the precinct or ward for thirty days immediately preceding the election at which he offers to vote; and for the purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while in the service of the United States, nor while engaged in the navigation of the waters of the State, or of the high seas, nor while a student in any institution of learning. No soldier, sailor or marine in the military or naval service of the United States shall acquire a residence by being stationed in this State.

There shall be a Board of Registrars composed of three intelligent and discreet men as nearly non-partisan as practicable not more than two of whom shall belong to the same political party and who shall hold a session of at least three days in each precinct of the county for the registration of voters and the registration books shall be kept open at the court house of the county.

All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce.

Section 2—That the Governor shall, with the advice and consent of the Senate, appoint a board of registrars for each county whose term of office shall be four years, and neither of them shall be eligible to any other office of profit during the term for which he shall have been appointed. The legislature shall fix their compensation, and regulate their sessions.

That such Board, and each of the members thereof, shall have power to administer oaths, and every person offering to register as a voter shall take the following oath: "I _____, do solemnly swear (or affirm) that I am 21 years old (or I will be before the next election in this county) and that I will have resided in this State one year, in the county six months and am now in good faith a resident of the same, and that I am not disqualified from voting by reason of having been convicted of any crime named in the constitution of this State as a disqualification to be an elector; that I will truly answer all questions propounded to me concerning my antecedents so far as they relate to my right to vote, and also as to my residence before my citizenship in this county; that I will faithfully support the Constitution of the United States and of the State of Alabama and will bear true faith and allegiance to the same. So help me God."

And any persons taking of such oath falsely as to any material part, shall upon conviction, be guilty of perjury and be imprisoned in the penitentiary. That any person offering to register as a voter within the time allowed by law who shall be rejected by said Board of Registrars shall within twenty days thereafter have the right of appeal without prepayment of cost to any circuit judge or judge of any city court who shall hear the case without delay, and if of opinion from the evidence that the appellant is entitled to vote, such judge must order the Board of Registrars to enroll his name as a legal voter, and everyone registered therein, shall vote in the precinct or ward in which he resides.

The following classes shall not be permitted to register, vote or hold office:

First—Those who shall have been convicted of treason, embezzlement, malfeasance in office, larceny, bribery or other crime punishable by imprisonment in the penitentiary.

Second—Those who are idiots or insane, nor anyone who is of notoriously bad character, a tramp, professional gambler or pauper, or who has sold his or bought the vote of another, or been convicted of any other fraud or bribery to procure his own election to any office or that of another person, and those who have not three months prior to any election paid all poll tax and all other taxes due from him.

Referred to Committee on Suffrage and Election.

The President here resumed the chair.

Ordinance No. 275, by Mr. Oates:

To improve the judicial system of the State.

Be it ordained by the people of Alabama, in convention assembled:

First—That at the expiration of the term of office of the present Circuit Judges, there shall be elected or appointed a Circuit Judge for each Senatorial District in the State.

Second—That said court shall be always open for the transaction of business, and whenever there are causes in such courts for trial, the judges thereof shall, after notice given to the parties, proceed with the trial of the same with or without a jury, as may be prescribed by law.

Third—That said Circuit Judges shall have and exercise equity jurisdiction, as may be prescribed by law.

Referred to Committee on Judiciary.

Mr. Phillips—I yield my call to Mr. Whiteside.

Ordinance No. 276 by Mr. Whiteside:

Be it ordained by the people of Alabama, in convention assembled, That no person, firm or corporation, shall construct or operate any railroad, car line, telegraph or telephone line on the streets of any town, city or village, under any franchise granted by the Legislature, or by the municipal authorities of such town, city, or village, without first paying to the owner of the property adjacent to such street, all just and reasonable damages that may result to such adjacent property by the construction and operation of such railroad, car line, telegraph or telephone line.

Referred to Committee on Corporations.

Resolution No. 113, by Mr. Whiteside:

Whereas, It is apparent that this Convention will not be able to complete its labors within the fifty days for which it is authorized to draw pay under the act calling the Convention;

And, whereas, The present Constitution provides that "No bill shall be passed giving any extra compensation to any public officer—nor shall any officer of the State bind the State to the payment of any sum of money but by authority of law," therefore be it

Resolved, That the question of the payment of the expenses of this Convention beyond the said fifty days be referred to the Judiciary Committee, with instructions to report thereon at an early date.

Resolved, further, that it is the sense of this Convention that no per diem be paid to the delegates of this Convention beyond the fifty days named in the act calling the Convention.

Referred to the Committee on Judiciary.

MR. REYNOLDS (Chilton)—I yield my call to Mr. Watts of Montgomery.

Ordinance No. 277, by Mr. Watts:

To add a Section to Article III., as follows:

Section —. The acceptance of office in one of the three departments, Judicial, Legislative or Executive, shall vacate of itself and at once any and all offices held by such person in either of the other departments.

Referred to Committee on Executive Department.

Ordinance No. 278, by Mr. Watts:

To amend Sections 11, 12, 13, 14, 15, 21, Article I.

Be it ordained, That Section 11 be amended so as to read as follows:

Sec. 11. That no person shall be debarred from prosecuting or defending before any tribunal in this State, by himself or counsel, any civil cause to which he is a party, or from prosecuting any criminal case in which he is the prosecutor.

That Section 12 shall be so amended as to read as follows:

Sec. 12. That the right of trial by jury shall remain inviolate, but courts for reasons, fixed by law may discharge juries from the consideration of any case, and no person shall gain any advantage by reason of such discharge of a jury.

That Section 13 be amended so as to read as follows:

Sec. 13. In all prosecutions for libel or defamation the truth of the charge may be given in evidence, and the jury shall determine the law and the facts under the direction of the court.

That Section 14 be amended so as to read as follows:

Sec. 14. That all courts shall be open, and that every person, for any injury done him in his lands, goods, person or reputation, shall have a remedy by due process of law, and right and justice shall be administered without sale, denial or delay; provided, that in all suits or proceedings for divorce, the party instituting the same may be by law required to give security for the costs of said suits or proceedings.

That Section 15 shall be so amended as to read as follows:

Sec. 15. That the State of Alabama shall never be made a defendant in any court of law or equity, except that where the State is a tenant in common or joint owner with an individual, the individual may file suit for partition or sale for partition, but in suits or proceedings commenced by the State, set-offs may be pleaded, and in equity suits commenced in the State, cross bills asking affirmative relief may be entertained.

That Section 21 shall be amended so as to read as follows:

Sec. 21. That no person shall be imprisoned for failing to discharge any obligation for which he is only civilly bound.

Referred to Committee on Preamble and Declaration of Rights.

Ordinance No. 279, by Mr. Watts:

To amend Sections 9, 10, 12, 17, 25, Article VI.

Be it ordained, That Section 9 be amended so as to read as follows:

Sec. 9. The General Assembly shall have power to establish in each county within the State a Court of Probate, with general jurisdiction for the granting of letters testamentary, and of administration and for orphans' business, provided, that whenever any court having equity powers has taken jurisdiction of the settlement of any estate, said equity court shall have power to do all things necessary for the settlement of said estate, including the appointment and removal of administrators, executors, guardians and trustees.

That Section 10 be amended so as to read as follows:

Sec. 10. The Judges of the Supreme and Appellate Equity Courts, Circuit Courts, Probate Courts, Inferior Courts established and Chancellors, shall, at stated times, receive for their service a compensation which shall not be diminished or increased, during their official terms, but they shall receive no fees or perquisites or hold any office except judicial offices) of profit or trust under this State or any subdivision thereof, or of the United States, or any other power, during the term for which they have been elected; provided, that the compensation of the Judges of the Supreme and Appellate Equity Courts shall not be fixed at less than $4,000 per annum, and the compensation of Judges of Circuit Courts and Chancellors shall not be fixed at less than $3,000 per annum.

That Section 12 be amended so as to read as follows:

Sec. 12. All Judges of the Circuit, Chancery, City or Probate and other courts, shall be elected by the qualified electors of the State or sub-division thereof for which said courts are established, at such times as may be prescribed by law, and the term of office of each of said judges shall be eight years.

That Section 17 be amended by adding the following:

Sec. 17. But in case of the creation of a new judge or chancellor, said judge or chancellor shall be elected at a special or general election, and shall hold his office until the terms of other judges or chancellors expire and until his successor is elected and qualified.

Referred to Committee on Judiciary.

Ordinance No. 280, by Mr. J. W. A. Sanford:

Be it ordained by the people of Alabama in Convention assembled,

That a bureau of Industrial Resources be and the same is hereby established, which shall be under the management of an officer who shall be known as the Commissioner of Industrial Resources. He shall be chosen by the electors of the State at the same time and place at which the people shall elect representatives in the General Assembly, and his term of office shall be of the same duration as that of the Governor of the State.

Be it further ordained that the Commissioner of Industrial Resources shall collect and condense statistical information concerning the productive industrialism of the State, and shall make a careful and accurate report annually, relative to the agricultural mining, manufacturing and mechanical pursuits of the people and perform such other duties as the General Assembly may require.

Referred to the Committee on Executive Department.

Resolution No. 114, by Mr. J. W. A. Sanford:

Whereas, in eight States and Territories of the Union the eagle alone, or in combination with other figures form the great seal, and whereas the great seal of this State should be distinctive and symbolic of some event in its history, or of some peculiarity in its topography, or of some characteristic of its people, therefore be it

Resolved, that a Committee of nine, one from each Congressional District, be appointed by the President of the Convention to suggest and recommend to the Convention a design for a great seal of Alabama, which shall be different from the seal of any other State or Territory

MR. SAMFORD—I move that the rules be suspended so that that resolution may be passed immediately.

A vote being taken the Convention refused to suspend the rules.

THE PRESIDENT—The resolution will be referred to the committee on Rules.

Ordinance No. 281, by Mr. H. C. Selheimer:

An ordinance relating to the Judiciary in counties having a population of forty thousand or more.

Be it ordained by the people of Alabama in Convention assembled:

That the General Assembly shall have the power to consolidate into one court, with as many divisions and judges and clerks thereof as may be deemed necessary, all the courts of record in any county having a population of forty thousand or more, except the Probate Court, and including the Circuit and Chancery Courts of said County, and to regulate and prescribe the practice and procedure in said court.

Referred to Committee on Judiciary.

Ordinance No. 282, by Mr. Selheimer:

To exclude from any limitation upon the indebtedness of municipal corporations, obligations or bonds issued for street improvement, etc.

Be it ordained by the people of Alabama, in Convention assembled:

That obligations incurred and bonds issued by municipal corporations to procure means to pay for street or sidewalk improvements, or storm-water or sanitary sewers, the cost of which is to be assessed against the property abutting on the improvement or drained by the sewers and obligations and bonds secured by mortgage on real estate owned by the municipal corporation, shall not be included in any limitation imposed upon the power of municipal corporations to incur indebtedness.

Referred to Committee on Municipal Corporations.

Ordinance No. 283, by Mr. Sentell:

Be it ordained by the people of Alabama in Convention assembled.

That Section 7 of Article XIII be amended by adding at the end of said section the following:

"And there shall be elected by the qualified voters of each County, a County Superintendent of Education, whose power, duties and compensation shall be fixed by law, and whose term of office shall be four years and until his successor is elected and qualified."

Referred to Committee on Education.

Ordinance 284, by Mac. A. Smith:

Be it ordained by the people of Alabama in convention assembled, That Section 23 of Article IV, of the present Constitution of said State, be amended so as to read as follows:

No special or local law shall be enacted for the benefit of individuals or corporations, in cases which are or can be provided for by a general law, or where the relief sought can be given by any court of this State; nor shall the operation of any general law be suspended by the General Assembly for the benefit of any individual, corporation or association. And any law which does not apply to all the inhabitants, or to all the territory of the State, shall be held to be a special or local law within the meaning of this constitution.

Referred to Committee on Local Legislation.

Ordinance 285, by Mr. Mac. A. Smith.

Be it ordained by the people of Alabama in convention assembled, That the General Assembly of Alabama shall have no power to delegate to individuals or private corporations any authority to levy taxes.

Referred to Committee on Legislative Department.

Ordinance 286, by Mr. Mac. A. Smith.

Be it ordained by the people of Alabama in convention assembled, That the State of Alabama shall not contract any public debt which the ordinary revenues of the State shall be inadequate to meet at the maturity thereof.

Referred to Committee on Legislative Department.

Resolution No. 115, by Mr. Mac. A. Smith (Autauga):

Resolved, That it is the sense of this convention that a provision shall be inserted in the proposed new constitution for the State of Alabama limiting the rate of taxation by State, counties and municipalities, and that such rate of taxation shall not exceed the rate now fixed by the present construction but a lower rate shall be fixed if practicable.

Referred to the Committee on Taxation.

Ordinance No. 287, by Mr. Thompson (Bibb):

An ordinance to amend Section 5 of Article XIII of the present constitution.

Be it ordained by the people of Alabama in convention assembled, That Section 5 of Article XIII of the present constitution be amended so as to read as follows: The income arising from the Sixteenth Section trust fund, the surplus revenue fund, until it is called for by the United States Government, and the funds enumerated in Section 3 and 4 of this Article together with one-third of all of the revenues of the State, shall be applied to the support and maintenance of the common schools of this State, and the General Assembly shall not decrease the funds above provided, but may by a vote of two-thirds of the members thereof increase the same by such sums as the condition of the treasury will warrant, which school fund shall be apportioned to the counties in proportion to number of children in such county within school age, and the sum so apportioned to the counties shall be divided among the children of such county as the best interests of the State may require.

Referred to Committee on Education.

Ordinance No. 288, by Mr. Thompson (Bibb):

An ordinance to provide for the election of Solicitors and county officers and prescribe the term of office.

Be it ordained by the people of Alabama, in convention assembled:

Section 1, At the election for State officers in 1904, and each four years thereafter, there shall be elected by the qualified voters of each Judicial Circuit in Alabama a Solicitor, who shall be learned in the law, and who shall, at the time of his election and during his continuance in office, reside in the circuit for which he is chosen, and whose term of office shall be four years.

Sec. 2. Be it further ordained, There shall be elected by the qualified voters of each county, at the same time as State officers are elected, a Judge of Probate, Clerk of the Circuit Court, Sheriff, Tax Collector, Tax Assessor, Treasurer, County Solicitor and Superintendent of Education, each for a term of four years.

Sec. 3. None of the officers mentioned in this Article shall be eligible to any office whatsoever for two years next after the expiration of their terms above provided for, except Judges of Probate and Superintendents of Education.

Referred to Committee on Judiciary.

MR. WILLIAMS (Elmore)—I yield my turn to Mr. Burns of Dallas.

Resolution No. 116, by Mr. Burns (Dallas):

Resolved, That ex-United States Senator James L. Pugh, ex-Governor Joseph J. Johnston, ex-Secretary of the Convention of 1875, Benj. H. Screws, and the seven surviving members of the last Constitutional Convention be allowed the privileges of the floor.

Referred to the Committee on Rules.

MR. SMITH—I desire to make a report for the Committee on Rules.

The report was read as follows:

The Committee on Rules reports that it has had under consideration Resolution No. 77, by Mr. Proctor, which reads as follows:

"Resolved, That the Committee on the Journal shall be entitled to a clerk, to be appointed by the chairman, who shall receive the same per diem as clerks of the other committees.

"The said clerk shall, when not engaged with said committee, serve any other committee that may need a clerk, or serve the Secretary of this convention, when so required by him."

And reports favorably upon said resolution and recommends its adoption by this convention.

On motion of Mr. Proctor, the report was adopted.

THE PRESIDENT—The next order of business will be the call of the standing committees.

The call was begun, but on motion of Mr. Williams (Marengo) was dispensed with.

THE PRESIDENT—The next order of business is the call of special committees.

THE CLERK—There are none.

On motion of Mr. Boone, the convention then adjourned.

CORRECTION

In resolution No. 204, by Mr. Wilson (Washington) the word "desire" should be "reside."

In proceedings of Tenth Day, at top of fourth column, there should be inserted the following:

MR. BULGER—I raise the point of order on the objection of the gentleman from Montgomery that his objection comes too late—leave has already been granted.

TWELFTH DAY

MONTGOMERY, ALA.,

Wednesday, June 5, 1901.

The convention was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Provence, as follows:

O God, our Heavenly Father, it is again with glad and thankful hearts we come before Thee, to invoke Thy blessings. We thank Thee for all the blessings Thou hast so freely given us. The years have been full of Thy mercy and Thy love. We thank Thee that Thou hast cared for us and guarded us and helped us and given us so much to make life bright and happy and useful. We thank Thee that Thou didst so love the world as to give Thine only begotten Son that whosoever believeth in Him should not perish, but should have everlasting life. We thank Thee for everything Thou dost permit us to do for the advancement and for the glory and for the uplifting of our fellow men. We pray Thy blessings upon the session of this convention today, and grant that these, thy servants, who come from every quarter of the State may come with a deep sense of their respective responsibility and

of the glorious opportunities before them. Help them in all their deliberations, to be wise, earnest and faithful, laying aside all personal motives and all partisan spirit, striving together for those things that shall promote the interest of our State and of our people. We pray Thee that they may do the wisest and best things; that they may be guided by Thine own wisdom. Bless every member of the convention; bless all the homes from which they come. May Thy Holy Spirit keep charge over us in all our work, and use us for Thine own glory, for Jesus's sake. Amen.

MR. SANFORD—I rise to a question of personal privilege.

THE PRESIDENT—The gentleman will state the question of privilege.

MR. SANFORD—I find in The Advertiser of this morning, in speaking of the various resolutions and ordinances that were introduced on yesterday, it says that General Sanford of Montgomery seeks to have a committee raised to draft a new design for a State "steal," instead of a State seal. (Laughter). I have received applications from two honest and honorable gentlemen for places in that organization. I assure them and you, that I have no such enterprise in the world on hand. (Laughter).

THE PRESIDENT—A very unfortunate typographical error.

The Secretary called the roll, and 126 delegates responded.

MR. SANFORD—I am requested by the Hon. James E. Cobb, who is sick, to ask leave of absence for him for today.

The leave was granted.

MR. HARRISON — I beg to ask leave of absence for Mr. Renfroe for today.

The leave was granted.

MR. ROGERS (Lowndes)—I request leave of absence for Mr. Ledbetter for two days.

The leave was granted.

MR. WILLIAMS (Marengo)—I ask leave of absence for today for Mr. Williams of Elmore, who is sick at his hotel.

The leave was granted.

MR. JACKSON—I desire to state that I was absent yesterday from the Convention on account of sickness.

The leave was granted.

MR. LOCKLIN—I desire to ask leave of absence for Mr. Morrisette for three days, on account of sickness.

The leave was granted.

MR. HOOD—I ask leave of absence for Mr. Davis of Etowah for today.

The leave was granted.

MR. SENTELL—I wish to ask leave of absence for myself for tomorrow.

The leave was granted.

MR. SANDERS—Mr. Henderson of Pike requests leave of absence for today.

The leave was granted.

MR. WEAKLEY—I desire to ask leave of absence for myself for tomorrow.

The leave was granted.

MR. MACDONALD—I desire to ask leave of absence for Mr. Jones of Montgomery for today.

The leave was granted.

THE PRESIDENT—The next order of business will be the report of the committee on the journal.

MR. PROCTOR—The stenographic report shows that ordinance No. 276 referring to municipal corporations introduced by Mr. Whitesides, was referred to the Committee on Corporations, when in fact it was referred to the Committee on Municipal Corporations. With that exception the Journal is correct.

THE PRESIDENT—The Chair has examined that question somewhat and thinks perhaps the stenographic report is correct. The Chair intended to refer it to the Committee on Municipal Corporations, but the Journal Clerk and Stenographer both say it was referred to the Committee on Corporations, so I think possibly they are correct and is was improperly referred. The reference will be changed to Municipal Corporations.

The report of the Committee on Journal was read, stating that the Journal was correct. On motion of Mr. Heflin of Randolph, the report was adopted.

MR. SMITH (Mobile)—I desire to make a report for the Committee on Rules.

MR. BOONE—One moment. Mr. Chairman, I move that the reading of the Journal be dispensed with.

THE PRESIDENT—There is a standing rule that has been adopted by the Convention, that the reading of the Journal be dispensed with, unless the reading is demanded by some member.

MR. BOONE—I withdraw the motion.

The report of the Committee on Rules was submitted and read as follows:

The Committees on Rules beg leave to report that they have had under consideration the resolutions hereinafter mentioned, and beg to report thereon as follows:

The Committee reports adversely to resolution number 86, introduced by Mr. Long of Walker, and recommends that it be not adopted by the Convention. Said resolution reads as follows:

Whereas, a resolution making an appropriation from the State Treasury of $70 a day for a stenographic report of the proceedings of the Constitutional Convention was passed by this body without an aye and nay vote, and

Whereas, There are grave doubts as to the legality of such a proceeding, and

Whereas, The stenographic reports as published show many errors, therefore.

Be it resolved, That the President of this Convention be and he is hereby requested to immediately cancel the contract for stenographic report, after paying all the expenses by the State connected therewith, to the date of cancellation.

The Committee reports favorably on resolution number 105, introduced by Mr. Searcy of Tuscaloosa, and recommends its adoption by the Convention. Said resolution reads as follows:

Resolved, That whereas this Convention has made a contract with Mr. Pat McGauly for stenographic reports of the proceedings of the Convention, wherein it was agreed to pay said McGauly seventy dollars for each working day of the Convention for such stenographic report, and whereas there is now no authority in the law for the auditor to draw his warrant on the treasurer for payment of said stenographer, therefore, Be it ordained by the people of Alabama, in Convention assembled, that there is hereby appropriated a sum sufficient to pay whatsoever shall be due said stenographer according to said contract, and the auditor is hereby authorized and empowered to draw his warrant on the treasurer in favor of said stenographer for such sums as shall from time to time be certified to be due for such purpose by the President and Secretary of the Convention.

The Committee reports back to the Convention resolution number 83, introduced by Mr. Pettus of Limestone, without recommendation on its part, for the action of the Convention.

The Committee reports back to the Convention resolution number 87, introduced by Mr. Vaughan of Dallas, without recommendation on its part, for the action of the Committee.

The Committee reports back to the Convention resolution number 102, introduced by Mr. Henderson of Pike, without recommendation on its part for the action of the Convention.

The Committee reports as a substitute for resolution number 97, introduced by Mr. Winn of Barbour, the following resolution, and recommends its adoption by the Convention.

Resolved, That it is the sense of this Convention that each ordinance offered shall contain but one subject matter, which shall be clearly expressed in the title, so that the same may be properly referred to the appropriate committee.

The Committe reports adversely to resolution number 101, introduced by Mr. Watts of Montgomery, and recommends that it be not adopted by the Convention, for the reason that its purpose is covered by rule number 47. Said resolution reads as follows:

Resolved, That whenever either of the committees hereafter appointed, except the Committee on Rules, on Journal, and procuring ministers, is ready to report, the chairman thereof shall hand the said report to the Secretary of this Convention, who shall cause the said report to be printed and a copy thereof placed upon the desk of each member of the Convention before the said report is considered.

2. That when any such report comes up for consideration by the Convention, each section or paragraph of said report shall be considered separately.

The Committee herewith returns to the Convention the resolutions herein-above referred to.

By Mr. Smith—In connection with the report, I call attention to Rule No. 47. I desire by way of explanation to read that rule:

Rule 47—When any ordinance is introduced it shall be read at length and be referred by the President without a vote being taken, unless otherwise ordered by a two-thirds vote of the Convention, to the appropriate committee. No ordinance shall be reported back from any committee until after the lapse of one entire legislative day. When any committee shall have reported to this Convention any article or section of the proposed constitution, said article or section shall again be read at length and three hundred copies thereof printed for the use of delegates; and such ar-

ticle or section shall lie on the table at least one day and until in regular order it shall be taken up for consideration by the Convention.

I now move the adoption of the report of the Committee.

MR. REESE—Mr. President, I desire to ask the gentleman from Mobile a question. Does that rule provide what shall be done in case there is a minority report?

BY MR. deGRAFFENREID—There is another rule that does.

THE PRESIDENT—There is a rule that requires that to be printed also. The Chair will call the attention of the gentleman to rule 51 which covers that point.

BY MR. WATTS—I admit that Rule 47 covers almost all of the gist of my resolution, but there is one part of it that Rule 47 does not cover, and that is, that when those reports are made and read, they shall be considered section by section, and it seems to me that unless there is some other rule to which the Committee can refer me, this Convention ought to adopt a rule which will require the reports of Committees to be considered section by section and not as a whole. If there is such a resolution, of course the Committee is right.

Without yielding the floor I would like to ask in regard to the resolution offered by myself, what effect does the adoption of the report have on the resolution introduced by me? Under rule 47, does it have any regard to an adverse report.

BY MR. SMITH (Mobile)—My understanding is, the report would simply carry that resolution to the Convention. That is the recommendation of the Rules Committee. It was of course adversely reported.

MR. LONG (Walker)—Does it lay the adverse report over one day or indefinitely?

MR. SMITH (Mobile)—The adoption of the report, I take it, would be concurring in the report of the Committee that it be not adopted.

MR. LONG (Walker)—Mr. President, I move that the report of the Committee upon the resolution introduced by myself, No. 86, which seeks to abolish the contract for a stenographic report, be taken up and that the resolution be put upon its passage, if I can meet with a second, the Committee on Rules to the contrary notwithstanding.

The motion was seconded.

MR. OATES—I do not see how that motion is in order when the report of the Committee is before the House, and involves that very identical question.

THE PRESIDENT—The question before the House is on the motion to adopt the report.

MR. LONG (Walker)—I offer this as a substitute and I have met with a second. I think I have the floor.

THE PRESIDENT—The gentleman from Walker has the floor. What was the motion? The Chair has not heard the motion.

MR. LONG (Walker)—I move, and offer the motion as a substitute for the motion made by the Chairman of the Committee on Rules, that the report of the Committee on Resolution No. 86 be taken up, and the resolution be put upon its passage, the report of the Committee on Rules to the contrary notwithstanding.

THE PRESIDENT—The gentleman from Walker moves as a substitute—for the entire report, or that part only?

MR. LONG (Walker)—No, sir; that part of the report which relates to Resolution No. 86.

MR. OATES—Mr. President, the gentleman cannot offer it as a substitute, but he can move to amend as to that part.

MR. LONG (Walker)—I am always thankful for information and I shall move then to amend. Not being a lawyer I am not so well posted.

THE PRESIDENT—The gentleman from Walker moves to amend that part of the report which refers to Resolution No. 86. To what extent does the gentleman move to amend?

MR. LONG (Walker)—I move the adoption of Resolution No. 86.

THE PRESIDENT—Will the gentleman put his motion in writing?

MR. HARRISON—What is the question now before the Convention?

THE PRESIDENT—The question is on the motion of the gentleman from Walker to amend the report of the Committee on Rules.

MR. HARRISON—Mr. President, I move to lay that motion on the table.

Seconded.

MR. LONG (Walker)—I rise to a point of order. I had not yielded the floor, and notice was given on last Saturday that I would call up this resolution on last Monday, and, through re-

spect to members on this floor, I put the motion off until Wednesday. The world has been notified of the fact that we would take it up.

THE PRESIDENT—The chair is of the opinion that the gentleman had not yielded the floor. The chair merely asked the gentleman to reduce the motion to writing.

MR. LONG (Walker)—Now that this amendment is offered, I shall ask the ruling of the chair on the validity of the contract as originally made on May 24th, and call the attention of the chair to the fact that the Constitution of the State of Alabama says that no debt shall be contracted except by an aye and no vote, and I further call the attention of the chair to the fact that I called for the aye and no vote, which was denied. I further call attention to the fact that there was no aye and no vote taken upon the resolution which was adopted, providing for this stenographic report, and I call for a ruling of the chair upon the validity of the contract as it now exists.

MR. BROOKS—I rise to a parliamentary inquiry. I understand that the chairman of the Rules Committee has made a report on several resolutions and motions that had been referred to that committee; is that so?

THE PRESIDENT—That is correct.

MR. BROOKS — Now, then, sir, I move a division of the question. There are some seven or eight matters, some of them very important, which have been reported by the Committee on Rules, and the motion now is for this convention to take them up as a whole, and either adopt them or reject them. Now, sir, I move that we divide the report so as to take up each separate resolution which was referred to them, and upon which they have made a report, and then it will be time for the gentleman from Walker to introduce his motion in regard to the resolution which he offered, and which was referred to the committee.

THE PRESIDENT—The gentleman from Mobile moves that the question upon the adoption of the report be divided and that each resolution be taken up seriatim.

MR. OATES—I am apprehensive that the delegate—

MR. LONG (Walker)—I have the floor.

MR. OATES—I rise to a question of order. I am not taking the gentleman off the floor at all.

THE PRESIDENT—The gentleman from Walker has the floor unless he yields it for the entertainment of a motion.

MR. BULGER—I rise to a parliamentary inquiry.

THE PRESIDENT—The gentleman from Montgomery rose to the same question.

MR. OATES—I was going to say that I am apprehensive that the delegate from Mobile does not understand the present attitude of the question. The point of order was made against the motion by the delegate from Walker, as to the report as a whole, and he is now preparing a motion to amend that report by striking out what relates to his resolution, and substituting the resolution. That is the motion which he is reducing to writing, and which is before the convention.

MR. BROOKS—Mr. President, in answer to the gentleman—

THE PRESIDENT—The gentleman from Walker has the floor on that proposition, unless he yields. The chair cannot entertain another motion.

MR. BROOKS—I would like to be recognized when the gentleman from Walker is through.

MR. BULGER—I rise to a parliamentary inquiry.

THE PRESIDENT—State the question of inquiry.

MR. BULGER—I would like to ask if Rule 47 operates on a resolution reported by the committee, just as it does on an ordinance reported by the committee.

THE PRESIDENT—The chair's understanding is and ruling would be that it does not. The Secretary will read the amendment proposed by the gentleman from Walker.

The amendment was read as follows:

"To amend the report of the Committee on Rules, as to resolution No. 86, by striking out the adverse report of Resolution No. 86, and substituting therefor the favorable recommendation of said resolution, and placing the same upon its passage."

MR. WHITE—I rise to a point of order.

THE PRESIDENT—The gentleman will state his point of order.

MR. WHITE—It seems to me that would be the convention making a report for the committee. That committee has the responsibility for its own report. The convention may adopt or reject its report, but I make the point of order that we cannot make a report for the committee.

MR. LONG (Walker)—I make the point of order that that is an amendment asked for by the Chair. I was trying to carry out the good suggestions made by the distinguished lawyers, who

seem to have technical ideas in mind. I was trying to cover all the wise suggestions that have been made—

THE PRESIDENT—The Chair is of the opinion that the gentleman can move to amend the report, so as to call for the adoption of the resolution instead of its rejection.

MR. WHITE—I rise to another point of order, and it is this; that the effect of that motion is to reconsider the resolution by which this convention decided to have a stenographic report, and it cannot be made at this time, and it could not have been made at the time the gentleman from Walker made it, because one entire day had elapsed from the time of the adoption of the resolution.

MR. LONG (Walker)—This is a separate resolution.

THE PRESIDENT—The Chair would rule, and the contract made with the stenographer provides, that the contract may be rescinded in case it is not complied with, and the resolution recites certain alleged failures on the part of the stenographer to comply with the contract; therefore, it would be in order, if the convention saw fit, to rescind the contract, although it would not now be in order to reconsider the original resolution.

MR. REESE—I rise to make a point of order.

MR. REESE—The question before the convention is the report of this committee. There are several matters treated of in that report, which are capable of division, and upon which separate votes should be taken. Under Rule 37, the gentleman from Mobile has called for a division of the questions contained in that report, and he is entitled to that division as a matter of right, and the gentleman's amendment is therefore out of order to the whole report.

MR. WILSON (Clarke)—That proposition would undoubtedly be correct if the gentleman from Mobile had been entitled to the floor, but the gentleman from Walker had the floor, and still has the floor and the gentleman from Mobile could not be recognized to call for a division of the question. Whenever he could get the floor he could call for the division.

THE PRESIDENT—That was the former ruling of the Chair and will be adhered to, unless the gentleman from Walker yields the floor.

MR. LONG (Walker)—Mr. President, I have no desire to take up the time of this House, neither have I any apologies to make for offering a resolution that seeks to save to the tax payers of Alabama $70 a day, on a contract, an illegal contract, made without an aye and no vote in this assembly, although called for by myself. A contract that, had it been legal and if there was any excuse for it, is certainly null and void on account of the errors,

the numerous errors that have existed in that report from the first day, on May 24, until the present time. A report that is so full of errors, that the numerous corrections are almost equal to the numerous leaves of absence that are asked here by members daily upon this floor. A report that makes it May 28th twice in the same month, although three days apart in the proceedings. A report that makes a minister of the gospel advocate 50 cents for mileage instead of 5 cents, as the distinguished gentleman from Cleburne was made to appear by this report.

A report, Mr. Speaker, that is without a fact and precedent in the State of Alabama; that is gotten up, in my humble judgment, for no other purpose than to air the great set speeches by the members upon this floor, at any expense of $70 a day, when on the markets of Alabama those same set speeches would not sell any where, three for a dime. (Laughter.)

Why, Mr. Speaker, the only smart thing I have said at all in this convention, is credited to another man than myself. (Laughter.)

I would probably ask for a correction of that report, but I do not desire to take any laurels from his crown. I am willing to let him have it as they have it reported.

Why, my resolution has certainly done some good, Mr. Speaker, whether it is adopted by this Convention or not—they are now getting the dates right, which is some improvement.

Now, then let us reason together as business men; let's look at these facts as they exist, not as our ambitions would dictate, but the principles, and the business principles of Alabama, and the tax payers' interests of the State. Let us look this matter fairly in the face. I have investigated it some and I am prepared to state, in answer to a direct question, that the Clerk of this House states to me, without one dollar more expense, that he can furnish a carbon copy of every resolution, and every report of a committee, to the printers at 6 o'clock in the afternoon, and the printers will publish that in pamphlet form, not exceeding 40 to 60 cents per page, and thirty pages is the most that any of the proceedings of this Convention would amount to up to today. Therefore, he can publish it, an exact copy of the Journal, at an expense not exceeding $15 a day, instead of $72 per day.

Something has been said, and a hue and cry will be raised that we are bound to stand by our contract, that once made we should stand by it. I believe, Mr. President, in standing by any proposition that is fairly made, whether just or unjust; I believe in paying all debts, private, State, gambling debts, and everything else that are made; but, I contend that this contract has been violated, and gentlemen, the bond given for the faithful per-

formance of the contract should be declared null and void, and we should pay them up to date and let them go.

Now, Mr. Speaker, there has been a great deal of wisdom set forth in the many resolutions that have been offered upon this floor. Midnight oil been burned time and again, and the result has been the birth of some resolutions here, relating to dog laws, relating to stock laws and fixing the time that a man who has been relieved from a troublesome woman shall remain single, seven years before he shall be entitled to another draw from the matrimonial basket. (Laughter.) Now, Mr. Speaker, you may just as well say a man shall stay single ten years before he goes courting, as that he shall stay single four years before he gets marired again.

I believe that the publication of these stenographic reports, that are sent broadcast over the State daily, is the cause of many such unwise resolutions as those to which I refer. I believe, Mr. President, that it is largely due to these reports. Why, sir, you can watch the members here, each one of them, and I am probably as guilty as the balance, and the first thing when they get The Advertiser after introducing a resolution or an ordinance on the day previous, is to turn to their resolution and swell with pride like a toad frog swells with wind. (Laughter.) They will be unanimous in their verdict, I am a statesman true and great, I wonder why haven't the people of Alabama found it out before. Great indeed have been many of the resolutions which have been introduced here, and foolish indeed will be the people, after reading it at any expense of seventy dollars a day, if they do not recognize our greatness in furnishing them such literature to read.

A friend of mine in Birmingham recently told me that he thought the object of the stenographic report was to put so much that was foolish in it that the people wouldn't read it. I told him no; that I believed the object was to have so many errors in it that a man could deny anything that he said.

It is certainly one or the other of these reasons why the gentlemen insist upon the adoption of such a motion. Take the history of the case. Why a motion was made here, before the Convention was fairly settled, and fairly organized, for a special committee to be appointed to draft such work. I doubt not but that every member on this floor had received various communications, looking forward to the adoption of this thing before the meeting of the Convention. It has been charged in some of the newspapers in Alabama that I had a set speech for just such an occasion as this, and that some of the set would set down on me, but this is not the case as set. The only set that I want set, is to be set opposite the subsidized set, upon a setting that costs seventy dollars a day, set in cold type, set by a certain subsidized set, and for the benefit of a privileged set upon this floor (Applause.)

Mr. President, the stenographic reports are great, indeed, and great indeed will be the reading of many things which they contain in the days to come. They will wonder why so many great men differed in framing a Constitution, so widely and every little thought and expression published in the record, will be but cudgels in the hands of the enemies of the Constitution, to fight us in the battle for its ratification, and the fight for its sustainment in the Supreme Court of the United States.

It has been charged that I and others are afraid to go on record. I may have been called everything on this earth, but I have never been justly called a coward. I am not afraid to go before the whole people with anything that I say. But, sir, it is my love of them that makes me object to forcing them to read such foolish expressions that myself and others in this convention may make, especially at an expense of seventy dollars per day. There can be no good reason given why we should longer ratify or confirm a contract that is full of errors, from start to finish, when we can do the same work at a saving of about fifty-five dollars a day.

Again, you can let the Brown Printing Company, or others, publish this in pamphlet form, when we have the journals published, and we can have the journals of this convention published at least thirty days earlier than can otherwise be done, and there is not a printer in the sound of my voice but what knows this is the fact.

I yield gracefully to a majority, provided the majority is right, and provided that the resolution that they adopt is legal. I contend that the whole thing is null and void. As great as we are, as great as this convention is, we have no right to appropriate money and put this useless debt upon the people of Alabama without an aye and no vote. If we can do it for seventy dollars per day, we can do it for seven million dollars per day.

I am not a lawyer, not even a constitutional lawyer, and they are the most common of all lawyers. Why, sir, whenever they begin to speak of an old man that lives in any of the villages or towns of Alabama, they ask how the old fellow is getting along and if he is doing a good law practice, and some fellow says no, he has not a good practice, but he is a very fine constitutional lawyer.

Now, Mr. President, I do not desire to take up longer time upon this argument, and, in the language of John Allen, who once said in Congress, having answered all of the opposition and all of the claims of the opposition to this measure, I am ready to receive the congratulations of my numerous friends for this privilege, and I thank you, Mr. President, and I give notice that I may have something to say in regard to some of the statements that will be made upon this floor, as the mover of this resolution.

MR. HARRISON—The delegate from Walker having had his say, the convention having heard this matter discussed, and having seen the practical operation of the resolution he seeks to repeal, I now move to lay his motion on the table.

MR. LONG (Walker)—And on that I call for the ayes and noes.

The President stated the question was upon the motion of the gentleman from Lee to lay the amendment of the gentleman from Walker on the table. A reading of resolution No. 86 was called for by Mr. Sanford, and the resolution was again read.

THE PRESIDENT—Is the call for the ayes and noes sustained?

MR. LONG (Walker)—I ask for the reading of Rule No. 36, that the members on this floor may know that it takes thirty delegates to sustain a call for the ayes and noes.

Rule 36 was read as follows:

"The ayes and noes shall only be ordered when the call therefor is sustained by thirty delegates."

THE PRESIDENT—The question is on the motion of the gentleman from Lee to lay the amendment of the gentleman from Walker.

MR. LONG (Walker)—I called for the ayes and noes.

THE PRESIDENT—The Chair called upon the convention to know if the call for the ayes and noes was sustained and saw no gentleman rise.

Thereupon the call for ayes and noes was sustained by thirty-two delegates rising.

The question being upon the motion to table the amendment of the gentleman from Walker (Mr. Long) the vote upon roll call resulted as follows:

AYES.

Messrs. President,
Altman,
Banks,
Bartlett,
Bethune,
Blackwell,
Boone,
Brooks,
Browne,
Bulger,
Burnett,
Byars,
Carmichael, of Coffee,
Carnathan,
Case,
Coleman, of Greene,
Carmichael, of Colbert,
Cornwall,
Craig,
deGraffenreid,
Eley,
Eyster,
Espy,
Ferguson,
Fitts,
Foshee,
Foster,
Freeman,
Gilmore,
Graham, of Montgomery,
Graham, of Talladega,
Greer, of Calhoun,
Handley,

Harrison,
Heflin, of Chambers,
Hodges,
Hood,
Howell,
Jackson,
Jones, of Hale,
Jones, of Wilcox,
Knight,
Kyle,
Leigh,
MacDonald,
McMillan, of Baldwin
McMillan, of Wilcox,
Martin,
Maxwell,
Merrill,
Miller, of Wilcox,
Mulkey,
Murphree,
NeSmith,
Norwood,
Oates,
O'Neal, of Lauderdale,
O'Neill, of Jefferson,
Palmer,
Parker, of Cullman,
Parker, of Elmore,
Phillips,
Pillans,
Pitts,
Porter,
Proctor,
Reynolds, of Chilton,
Rogers, of Sumter,
Sanders,
Searcy,
Selheimer,
Sentell,
Sloan,
Smith, of Mobile,
Smith, Morgan M.,
Sollie,
Spears,
Stewart,
Studdard,
Tayloe,
Thompson.
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
Weatherly,
White,
Whiteside,
Wilson, of Clarke,
Winn.

TOTAL—91.

NOES.

Almon,
Ashcraft,
Barefield,
Beavers,
Beddow,
Burns,
Cardon,
Chapman,
Cofer,
Coleman, of Walker,
Davis, of DeKalb,
Duke,
Fletcher,
Grayson,
Haley,
Heflin, of Randolph,
Howze,
Inge,
Jones, of Bibb,
Kirkland,
Locklin,
Long, of Butler,
Long, of Walker,
Lowe, of Jefferson,
Lowe, of Lawrence,
Malone,
Miller, of Marengo,
Moody,
Opp,
O'Rear,
Pearce,
Pettus,
Reynolds, of Henry,
Robinson,
Rogers, of Lowndes,
Sanford,
Smith, Mac A.,
Spragins,
Williams, of Barbour,
Williams, of Marengo.

Total—40.

ABSENT OR NOT VOTING.

Cobb,
Cunningham,
Davis, of Etowah,
Dent,
Glover,
Grant,
Greer, of Perry,
Henderson,
Hinson,
Jenkins,
Jones, of Montgomery,
King,
Kirk,
Ledbetter,
Lomax,
Morrisette,
Norman,
Reese,
Renfro,
Samford,
Sorrell,
Willett,
Williams, of Elmore,
Wilson, of Washington,

Total—24.

MR. COLEMAN (Greene)—I desire to make a statement in reference to my vote. I opposed the adoption of the resolution providing for the employment of stenographers, but the contract has been made and I think the convention should carry it out. I therefore voted aye.

MR. deGRAFFENREID—I desire to explain my vote. I was not here when this contract was authorized, by the vote of this convention, if I had been present I would have voted against it, but as the contract has been made, I now vote to sustain it.

MR FOSTER—I rise to a point of order. A vote cannot be explained without a suspension of the rules.

MR. deGRAFFENREID—The explanation has already been made.

The President announced that by a vote of 91 ayes, 40 noes, the amendment offered by Mr. Long is laid upon the table.

THE PRESIDENT—The question recurs upon the adoption of the report of the committee.

MR. BROOKS—I now ask for a division of the question so as to take up every separate resolution, or series of resolutions reported by the committee.

MR. OATES—I think if the delegate from Mobile would give attention to the fact, there is no dissent from the report at all, except upon the point that has just been settled, so why not act upon the report as a whole

MR. BROOKS—I differ entirely with the gentleman from Montgomery. There may be a great deal of dissent. There are some resolutions which the committee report back without action, for the action of the convention; some are reported adversely and some favorably, and I do not see how we can act intelligently upon the whole report unless we have a division. I simply under my privilege as a member of the convention, under this rule, I ask for the division.

THE PRESIDENT—In the opinion of the Chair the gentleman is entitled to have a division of the question. The secretary will read the first resolution reported.

The resolution was read as follows:

The Committee reports adversely to Resolution No. 86 introduced by Mr. Long of Walker, and recommends that it be not adopted by the convention. Said resolution reads as follows: "Whereas a resolution making an appropriation from the State Treasury of $70 a day for a stenographic report of the proceedings of the Constitutional Convention was passed by this body without an aye and no vote, and

Whereas, there are grave doubts as to the legality of such a proceeding and

Whereas, the stenographic reports as published show many errors, therefore,

Be it resolved, That the President of this convention be and he is hereby requested to immediately cancel the contract for stenographic report, after paying all the expenses by the State connected therewith, to the date of cancellation.

THE PRESIDENT—What will the convention do with this part of the report?

MR. BROOKS—I move its adoption.

The motion was seconded and carried.

The next section of the report was read as follows:

The committee reports favorably on resolution No. 105, introduced by Mr. Searcy of Tuscaloosa, and recommends its adoption by the convention:

Resolved, That whereas, this convention has made a contract with Mr. Pat McGauly for stenographic reports of the proceedings of this convention, wherein it was agreed to pay said McGauly $70.00 for each working day of the convention for the stenographic report; and, whereas, there is now no authority in law for the Auditor to draw his warrant on the Treasurer for payment of said stenographer, therefore be it ordained by the people of Alabama, in convention assembled, that there is hereby appropriated a sum sufficient to pay whatsoever shall be due said stenographer according to said contract, and the Auditor is hereby authorized and empowered to draw his warrant on the Treasurer in favor of said stenographer for such sums as shall from time to time be certified to be due for such purpose by the President and Secretary of the Convention.

THE PRESIDENT—What will the convention do with this part of the report?

MR. KNIGHT—I move its adoption.

The motion was seconded and carried.

MR. ASHCRAFT—I rise to a point of inquiry.

THE PRESIDENT—The gentleman will state the inquiry.

MR. ASHCRAFT—Rule 47 provides that if any ordinance is reported by a committee it shall be printed. Of course we are going to approve this part of the report, but I rise to inquire if it will be competent for the convention to suspend the rules and put this ordinance upon its passage, after it has laid over for one

day as required, or will we have to have it printed? I do not suppose there is a gentleman on the floor who would care to have this particular ordinance printed. I rise to know whether we are obliged to have it printed.

THE PRESIDENT—The chair does not understand that this is an ordinance. It is in the form of a resolution and consequently the rule would not apply.

MR. ASHCRAFT—It says "Be it ordained by the people of Alabama." It is an ordinance which was proposed to the convention and which is now favorably reported by the committee.

MR. COLEMAN (Greene)—Mr. President, "ordinance" only refers to changes or amendments in the Constitution.

THE PRESIDENT—That is the understanding of the chair, without regard to what it might be called. The rule requiring ordinances to be printed does not apply to resolutions. The chair would hold that this proposition might be put on its passage without printing.

MR. BURNETT—The rule says ordinances, and it seems that this is a resolution.

The report of the committee on resolution No. 105 was again read, and, upon motion, the report of the committee thereon was unanimously adopted.

THE PRESIDENT—The Secretary will read the next section of the report.

The section was read as follows:

"The committee reports back to the convention No. 83, introduced by Mr. Pettus of Limestone, without recommendation on its part, for the action of the convention."

Resolution No. 83 was read as follows:

"Be it resolved, That hereafter all ordinances and resolutions offered in this convention shall state briefly in the title the substance of such ordinances or resolutions, and shall be read by title only and referred to the appropriate committee. Provided, that it shall be in order for any delegate to call for a full reading of such ordinance or resolution within a reasonable time after it has been read by title."

MR. PETTUS—I submit that that is the practice in the General Assembly, and it is a rule that this convention will be forced to adopt to save time if the flood of ordinances continues after the committees begin to report. Of course, just at this time, since the introduction of ordinances and resolution is the principal business before us, there is no necessity for it, and I will move to re-

commit that to the Committee on Rules to report it to the convention when it becomes necessary in order to save time.

A vote being taken, the motion to re-commit was lost.

MR. HOWELL—If it is in order, I move the adoption of that report. It is simply an open and shut case. That is the uniform custom in the General Assembly, and as these resolutions are printed in the daily reports of the convention, I see no reason why that should not be adopted at once.

THE PRESIDENT—The gentleman from Cleburne moves that this part of the report be adopted.

MR. CARMICHAEL (Colbert)—If that part of the report is adopted, the stenographic report which this convention has contracted for would be of very little service to the convention, unless other rules were adopted requiring the stenographer to include in his report the resolutions and ordinances which were not read but which were introduced. I, therefore, think the resolution ought not be adopted.

THE PRESIDENT—The motion was not to adopt the resolution, but adopt the report of the committee with reference to the resolution—to concur in the report of the committee.

MR. BROWNE—What was the report of the committee on that subject?

THE PRESIDENT—The committee reported it back to the convention without recommendation.

MR. BROWNE—Then I submit there is nothing before the House.

THE PRESIDENT—The report of the committee is before the House and a consideration of it is being had section by section —that has been demanded, and that part of the report of the committee is before this body.

MR. OATES—I understand the report of the committee is non-action on that resolution.

THE PRESIDENT—Simply to report it back to the convention.

MR. OATES—Then we don't need a resolution of concurrence to get rid of it.

THE PRESIDENT—The motion of the gentleman from Cleburne was to concur in the report.

A vote being taken, this section of the report of the committee was concurred in.

MR. ROBINSON—I offer an amendment.

THE PRESIDENT—The question is what will the convention do with the resolution of the gentleman from Limestone?

MR. PETTUS—I desire to offer an amendment to the resolution.

The amendment was read as follows:

"Amend by adding 'Provided, however, that the daily stenographic report shall set out all ordinances and resolutions introduced in full."

MR. ROBINSON—That was the amendment I offered.

THE PRESIDENT—The gentleman from Limestone offered the same amendment.

MR. OATES—I rise to a parliamentary inquiry. Is the resolution in the report which has just been concurred in before the convention at all? The committee referred it back without recommendation. How did it get before the convention?

THE PRESIDENT—The chair understands the committee reported the resolution back to the convention—

MR. OATES—But without recommendation and how did it get before the Convention for consideration?

THE PRESIDENT—It was a part of the report of the Committee on Rules.

MR. OATES—Not for consideration, however. That part of the report of the Committee has been concurred in by the Convention but—

THE PRESIDENT—The Secretary will read that part of the report.

The Secretary read as follows: "The Committee reports back to the Convention Resolution No. 83, introduced by Mr. Pettus of Limestone, without recommendation on its part for the action of the Convention."

MR. OATES—And the action of the Convention has been had by concurring in that part of the report and the resolution failed and is not by the report of the Committee before the Convention for consideration at this time.

MR. PETTUS—I rise to a point of order.

THE PRESIDENT—The delegate from Limestone will please state his point.

MR. PETTUS—I submit to the distinguished gentleman from Montgomery that the report of the Committee on Rules is that this resolution be referred back without recommendation "for the action of the Convention."

MR. OATES—It don't use that language.

MR. PETTUS—I understand that is the language.

THE PRESIDENT—That is the language of the Committee, "for the action of the Convention."

MR. PETTUS—I then moved to refer that back to the Committee to report it to the Convention whenever a necessity for it arose. The Convention voted that down and then voted to accept the report of the Committee on Rules, which brings the resolution up for the immediate action of the Convention. I submit to the Chair if I do not correctly state the situation.

THE PRESIDENT—That is the ruling of the Chair.

MR. BLACKWELL—I rise to make a parliamentary inquiry, and it is as to the attitude of this resolution. It is now here before the Convention, as I understand it.

THE PRESIDENT—It was reported by the Committee without recommendation.

MR. BLACKWELL—Then the point of order I would make is that unless the rules are suspended no resolution can be voted upon.

THE PRESIDENT—The Chair is of the opinion that the point of order is not well taken. The Committee on Rules reports this resolution back expressly for action by the Convention inasmuch as the Committee on Rules did not see fit to take the responsibility of making any recommendation. It is referred back "For action by the Convention." That is the purpose for which it is brought here and the question is on the adoption of the motion to amend made by the gentleman from Limestone.

MR. HARRISON—That amendment was offered by the gentleman from Chambers.

THE PRESIDENT—The gentleman from Limestone caught the eye of the Chair and proposed the identical amendment which the gentleman from Chambers intended to propose. The Chair recognized the gentleman from Chambers to offer his resolution and the Chair understood him to say it was covered by the amendment offered by the delegate from Limestone.

MR. MALONE—I regard that as the most dangerous resolution that has been offered in this Convention, and I move that it be laid on the table.

Upon call, the original resolution of Mr. Pettus and the amendment was again read.

MR. CHAPMAN—I rise to a point of parliamentary inquiry.

THE PRESIDENT—The gentleman will please state the point.

MR. CHAPMAN—As I understand it the question before the House is a report from the Committee on Rules. I ask now if the action of the Convention is not complete on that report of the Committee?

THE PRESIDENT—The Chair does not so understand it. The resolution was reported to the Convention by the Committee for action.

MR. CHAPMAN—Yes. As I understand it, Mr. President, the Convention has not completed its action upon the report of the Committee on Rules. It is true the Committee reports this matter back to the Convention for action, but it does not say that the action of the Convention shall be injected into the report of the Committee on Rules as a part of that report. It seems to me that the action on this matter should be postponed until the Convention has completed its action on the report of the Committee on Rules. We are here taking up a matter and injecting it as part of the action of the Committee on Rules, as final, during the pendency of action on the report of the Committee on Rules, and I think, if the Convention pleases, that we must first finish the action upon the report of the Committee on Rules and then we can take up the matter of this resolution of the gentleman from Limestone.

MR. HEFLIN (Chambers)—I make the point of order that a division of the report has been called for and this resolution be reported without recommendation by the Committee on Rules, is the property of the House.

MR. CHAPMAN—But the report of the Committee on Rules does not say that the House shall act on it while the House is acting on the report of the Committee on Rules. It is true it can be taken up immediately after the matter before the House, which is the report of the Committee on Rules, is finally acted on.

THE PRESIDENT—The Chair will rule that the resolution is before the Convention, having been brought before the Convention by the action of the Committee on Rules in reporting it to the Convention "for action," and the question is on the motion to table the resolution offered by the gentleman from Henry.

A vote being taken, the motion to table was carried.

THE PRESIDENT—The Secretary will read the next section of the report.

The Secretary read as follows: "The Committee reports back to the Convention Resolution No. 87, introduced by Mr. Vaughan

of Dallas, without recommendation on its part for the action of the Committee."

THE PRESIDENT—The Chair would call the attention of the Chairman of the Rules Committee to the fact that there seems to be a typographical error in this section of the report of the Committee in report back this resolution for the action of the "Committee" I presume it was meant to the "Convention."

MR. SMITH—I ask unanimous consent to amend the report by inserting the word "Convention" instead of the word "Committee."

THE PRESIDENT—Unless there is objection, it will be so ordered.

MR. SMITH—And I move the adoption of that portion of the report of the Committee.

MR. FOSTER—I rise to a point of order. Has not the report of the Committee on Rules already been adopted?

THE PRESIDENT—Not this part.

MR. FOSTER—I thought it was the entire report.

THE PRESIDENT—No, only that part as to the resolution offered by the gentleman from Limestone has been carried.

Resolution 87 was read as follows:

"Resolved, That no delegate shall introduce a resolution or ordinance until his name is reached on the roll call except under a suspension of the Rules."

MR. ROBINSON—I rise to a point of inquiry. Suppose we concur in that report, what becomes of that resolution?

THE PRESIDENT—The resolution will be before the House for adoption or rejection.

MR. ROBINSON—If we refuse to concur in the report?

THE PRESIDENT—The report will simply be defeated and lost as to that portion of it.

A vote being taken the report of the Committee on this section of said report was concurred in.

THE PRESIDENT—Resolution No. 87 offered by the gentleman from Dallas is now before the House.

MR. BROOKS—I rise to a question of parliamentary procedure. I would like for the Chair to state upon what proposition the vote just taken was had. I voted "no" supposing it was on that resolution.

THE PRESIDENT—It was on concurring in the report of the Committee.

MR. BROOKS—We could not take a vote on that proposition of concurring in the report of the Committee when the reading of that resolution was called for.

THE PRESIDENT—The report of the Committee is before the Convention and on the demand of the gentleman from Mobile, we are considering it section by section.

MR. HEFLIN—I make the point of order that the Committee on Rules reported this back to the Convention for the action of the Convention.

MR. BROOKS—The question is, will the House accept that or refer it back to the Committee.

THE PRESIDENT—That was the question the Chair stated to the Convention and the Convention accepted the report and the question now is what will the Convention do with this resolution?

MR. VAUGHAN—I move the adoption of the resolution.

A vote being taken the resolution was lost.

THE PRESIDENT—The Secretary will read the next section of the report.

The Secretary read as follows:

"The Committee reports back to the Convention Resolution No. 102 introduced by Mr. Henderson of Pike, without recommendation on its part, for the action of the Convention.

The Committee on Suffrage and Election, under the permission given on yesterday, here retired from the House to resume their labors in Committee.

MR. SMITH (Mobile)—I move the adoption of that section of the report of the Committee.

A vote being taken the motion was carried.

THE PRESIDENT—The question is now on the resolution No. 102 introduced by the gentleman from Pike. What is the pleasure of the House?

The resolution was read as follows.

"Resolved, That hereafter no member of this Convention shall yield his call for the purpose of introducing resolutions and ordinances to any other member, nor shall any other member on the call of his name introduce resolutions or ordinances in the name of any other member where such other member answered to his name on roll call on any days session of this Convention."

On motion the resolution was tabled.

THE PRESIDENT—The Secretary will read the next section of the report.

The Secretary read as follows: "The Committee reports as a substitute for Resolution No. 97, introduced by Mr. Winn of Barbour, the following resolution, and recommends its adoption by the Convention: 'Resolved, That it is the sense of this Convention that each ordinance offered shall contain but one subject matter, which shall be clearly expressed in the title, so that the same may be properly referred to the appropriate committee."

MR. SMITH—I move that the Convention concur in the report of the Committee just read.

MR. WATTS—I rise to a question of inquiry. Does that mean that two or three sub-divisions cannot be included in one paper?

MR. SMITH—The substitute does not undertake to bind a member or prevent him from offering what he pleases, but is a mere matter of recommendation, that it is the opinion of the Committee that the subject matter of an ordinance should be expressed clearly in its title and the ordinance should relate to only one subject.

MR. WATTS—But the question of inquiry is, does that mean that you cannot in the same ordinance, move to amend three or four different sections or does it mean that each ordinance must refer to only one section?

THE PRESIDENT—Does the gentleman from Montgomery propound his inquiry to the Acting Chairman of the Rules Committee or to the President? I understood him to propound it to the Acting Chairman of the Rules Committee.

MR. WATTS—I want to know how the Committee understands the resolution.

MR. SMITH—I don't know how I can state it more specifically. The Committee on Rules understood it as a resolution, that it was the sense of the convention that ordinances should contain but one subject matter, but the Committee does not propose to absolutely bind delegates in the matter of ordinances and resolutions. This is simply in the nature of a recommendation. It is further suggested that if several matters were covered by one general subject that that could properly come in one ordinance. In other words, the same rule that applies to bills on passage in the legislature.

Mr. Browne had obtained recognition from the Chair just before the remarks of Mr. Smith (Mobile) and yielded the floor to Mr. Smith. The Chair then recognized the delegate from Talladega.

MR. BROWNE—The gentleman from Mobile has given exactly the explanation that I rose to give.

MR. PROCTOR—I would like to know if it was the substitute of the Committee that was read or the original resolution of the delegate from Barbour.

THE CLERK—It was the substitute.

A vote was taken and it was announced that the report of the Committee was concurred in.

THE PRESIDENT—The Clerk will read the next section of the report of the Committee.

The Clerk began the reading of the section.

MR. BROWNE—I rise to a point of order. The resolution has not been adopted. Only the substitute has been adopted and the question is now on the resolution as amended by the substitute.

THE PRESIDENT—The gentleman is correct. The Chair should have stated the question on the resolution as amended by the adoption of the substitute.

MR. SMITH—I then move the adoption of the substitute proposed by the Committee.

The motion was seconded by Mr. deGraffenreid and was carried.

The Secretary then read the remaining section of the report as follows: "The committee reports adversely to resolution No. 101 introduced by Mr. Watts of Montgomery and recommends that it be not adopted by the convention for the reason that its purpose is covered by Rule No. 47.

A vote being taken this portion of the Committee's report was concurred in and on motion of Mr. Smith the report of the Committee on Rules as a whole was concurred in.

THE PRESIDENT—The next order of business will be the call of the roll alphabetically for the introduction of ordinances, resolutions, memorials and petitions and their proper reference to committees.

MR. WILSON (Clarke.)—Before the beginning of the roll call, I desire to ask leave of absence on account of sickness for Mr. Wilson of Washington.

The leave was granted.

MR. ASHCRAFT—I desire to ask leave of absence for myself for tomorrow and next day.

The leave was granted.

On the calling of the roll for ordinances, etc.:

MR. ALMON—I yield my call to Mr. Williams of Marengo.

Resolution No. 117, by Mr. Williams (Marengo.)

Whereas there appears to be great diversity of opinion as to the manner of appointment of trustees, faculty and executive officer of certain State educational institutions, and whereas, from years of association with the University of Virginia, I believe that the methods employed therein governing that institution of learning are good;

Therefore attached hereto is an unabridged copy of the laws of the University of Virginia for 1900 together with the code references from the laws of the State of Virginia in regard to said University which are commended to the study and careful consideration of the Committee on Education, hoping that, therefrom, they will get much that is good tending to relieve the said institution in the State of Alabama from objectional influences.

By Mr. Williams of Marengo.

With the consent of the convention, I beg that the attached exhibit be referred to the committee without reading before the convention, and without printing.

(With accompanying document.)

Referred to Committee on Education.

Ordinance 289, by Mr. Banks:

Be it ordained by the people of Alabama, in convention assembled, that Article VIII of the Constitution of Alabama on suffrage and elections be amended by striking out the whole of the article and inserting in lieu thereof the following:

Section 1. That every male citizen of the United States who is twenty-one years old or upwards and who is not prohibited by Section 2 of this Article from registering, voting or holding office, shall be an elector and entitled to vote at any election by the people, if such elector (one) shall be duly registered when registration shall be required and shall have resided in the State one year, in the county six months, and in the precinct or ward three months immediately preceding the election at which he offers to vote; and shall have paid all taxes, including a poll tax of three dollars, due the State and county, the receipt for which he shall exhibit to the managers of the election if they shall demand it.

Sec. 2. The following classes shall not be permitted to vote, register or hold office: (1) All persons who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery or any other crime punishable by imprisonment in the penitentiary. (2) Any person who shall hereafter be guilty of selling his vote or who shall buy or barter the vote of another in any legal election or in any primary, caucus or convention held to nominate persons for public office or to elect delegates to any political convention, or who shall make or aid in making any false certificate or return as to the result of such election, primary, caucus or convention. (3) All persons who have abandoned their wives without legal separation or who have abandoned their minor children without having made provision for their physical support and their moral training. (4) All idiots or insane persons.

Sec. 3. Be it further ordained by the people of Alabama, in convention assembled, That at every election by the people, either Federal, State, county or municipal, two grades of ballots shall be furnished the managers of elections at every precinct or ward which shall be similar and identical in every respect, except that one shall be white and the other shall be colored. These ballots shall contain the names of all the candidates offering for places or offices to be filled after the plan of arranging ballots under the system known as the Australian system of voting. When an elector entitled to vote shall make application to the election managers for a ballot and shall declare himself competent to prepare his own ballot then the manager of the election shall give him a white ballot, and he shall without assistance prepare his ballot by making a cross mark opposite the name of each candidate that he wishes to vote for, and when the ballot is properly prepared and given to the election managers, it shall count as one full vote. But when an elector who is entitled to vote at the election then being held, shall make application to the managers of the election for a ballot and shall declare himself incompteent to prepare his ballot by making a cross mark opposite the candidates for whom he wishes to vote, then the managers of the election shall give him a colored ballot and the elector shall be permitted to choose his own marker to aid him in preparing his ballot and when such colored ballot is thus prepared and given to the election managers, it shall be counted as one-fourth of a full vote.

Sec. 4. Be it further ordained by the people of Alabama, in convention assembled, That every man who was in the land or naval forces of the Federal or Confederate armies during the war between the States shall be permitted to cast a full ballot in all elections held in this State at which he is a qualified elector.

Sec. 5. Be it further ordained by the people of Alabama, in convention assembled, That after the year 1906 male persons coming into this State and all male persons arriving at the age of twenty-one years, shall, before being permitted to register as qualified voters, pass the following examination: (1) Every male person shall be able to write and shall read intelligently any section of the Constitution of the State. (2) He shall know enough of the geography of the State to give its boundaries, the names and locations of its

counties, its principal rivers and its principal cities. (3) He shall know how many departments there are in the government of the State and the functions and names of the officers in each of these departments, and when such examination shall have been passed in compliance with the requirements of this section and in compliance with such other rules as may be prescribed by the General Assembly in carrying out the requirements of this ordinance, then the person passing such examination shall receive a certificate of citizenship written or printed on parchment and signed by the examiner and Judge of Probate of said county, and recorded in a book kept for the purpose of keeping such records.

Sec. 6. Be it further ordained, That the General Assembly of Alabama, at its first session after the ratification of this Constitution shall enact such laws as will provide for the examination necessitated by Section 5 of this Act.

Referred to Committee on Suffrage and Elections.

Resolution No. 118, by Mr. Barefield:
To provide for the payment of stationery and printing, etc.

That whereas, It is necessary for this Convention to be supplied with the proper stationery and to have furnished for the use of the Convention various and sundry pamphlets, and whereas, the Secretary of State is not empowered to contract for or to appropriate any money to pay for such expense. Therefore be it resolved:

First—That the Chairman of the Committee on Schedule, Printing and Incidental Expenditures be and is hereby authorized to appoint three members of said committee with himself as chairman to contract for such stationery and printing at the lowest expense and to certify the various amounts due for said stationery and printing to the Secretary and President of this Convention, who shall cause to be drawn a warrant on the Treasury of this State to pay same and said amount when so drawn shall be charged up to the expenses of the Constitutional Convention.

Referred to Committee on Schedule, Printing and Incidental Expenditures.

MR. BAREFIELD—I move to suspend the rules and that that resolution be adopted.

MR. CARMICHAEL (Coffee)—I rise to a point of inquiry. Did not the Rules Committee report a similar solution authorizing the Secretary to supply that and pay for it.

THE PRESIDENT—The information of the Chair is that that resolution only referred to the necessary blank books and stationery for the Secretary's office.

A vote being taken, the rules were suspended, on a division the county being 60 to 5 and a further vote being taken the resolution was adopted.

Ordinance No. 290, by Mr. Beddow of Jefferson.

Section 1. Be it ordained by the people of Alabama in Convention assembled, That a Commission is hereby created consisting of three male citizens over the age of 25 years, to be elected at the first general election for State officers after the ratification of the Constitution. One of said Commissioners shall be learned in the law, and one of experience in the railway business. Their term of office shall be the same as that of the Governor, unless otherwise fixed by the General Assembly. The salary of said Commissioners shall also be fixed by the General Assembly, and paid as other State officers are paid. Any Commissioner may be suspended by the Governor for drunkenness, incompetency, or neglect of duty, and the Governor shall appoint his successor for the unexpired term. The said Commissioners shall take an oath of office to be framed by the Governor and they shall not be the holders or owners of any railroad stock or bonds, or be the agent or employes of any railroad company, or have any interest, directly or indirectly, in any railroad, its bonds or stocks, or other wise interested financially. The Governor shall have power to fill all vacancies in said Commission as they occur, as in other cases.

It shall be the duty of said Commission to carry out the provisions of this Constitution and all laws enacted by the General Assembly relative to railroads and canals in this State.

Sec. 2. The General Assembly shall have the right to confer upon the commission the power to make reasonable and just rates of freight and passenger tariff to be observed by all railroad companies doing business in this State on the railroads thereof, and to make reasonable and just rules and regulations to be observed by all railroad companies doing business in this State, as to charges at any and all points for the necessary handling and delivering of freights; and shall have power to make just and reasonable joint rates for all connecting railroads doing business in this State, as to all traffic or business passing from one of said roads to another, and to require the location of such depots, and the establishment of such freight and passenger buildings, as the condition of the road, the safety of the freight and public comfort may require, and to make just and reasonable rules and regulations, to be observed by said railroad company on said railroads; to prevent the giving or paying of any rebate or bonus, directly or indirectly, and from misleading or deceiving the public in any manner as to the real rates charged for freight and passengers; and to fix all local freight rates from one point to another in this State.

Referred to Committee on Corporations.

Ordinance No. 291, by Mr. Blackwell of Morgan:

An ordinance to prohibit the appropriation of any part of the public school money in aid of church or sectarian schools. And to prohibit teachers of public schools and superintendents of education from being interested in the sale, proceeds or profits of any books, school fixtures, etc.

Section 1. An ordinance. Be it ordained by the people of Alabama in Convention assembled, That neither the General Assembly, nor any county, city, town, township, school district, or other public corporation, shall ever make an appropriation, or pay from any public fund whatever, anything in aid of or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institutions controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property ever be made by this State to any church or for any sectarian purpose.

Sec. 2. Second, no teacher, State, County, township or district school officer shall be interested in the sale, proceeds or profits of any book apparatus, or furniture used, or to be used in any school in this State with which such officer may be connected, under such penalties as the General Assembly may provide.

Referred to Committee on Education.

MR. BOONE—I yield my turn to Mr. Waddell.

Ordinance No. 292, by Mr. Waddell:

An ordinance to amend Article VI of the present Constitution relating to the Judiciary.

Be it ordained by the people of Alabama in Convention assembled, That Section 1 of Article VI be amended by inserting therein the words "County Court."

Sec. 2. Be it further ordained that Section 5 of Article VI be amended so as to read as follows: The Circuit Court shall have original jurisdiction in all matters, civil and criminal, within this State not otherwise excepted in this Constitution, but in civil cases only where the matter or sum in controversy exceeds two hundred dollars ($200) and of all trials involving the title to lands.

Sec. 3. Be it further ordained, That a section be added to or included in Article VI to read as follows: The County Courts in all counties where no city courts or inferior courts of law and equity have already been created by law shall have original jurisdiction of all misdemeanors, and all civil matters where the sum in controversy does not exceed two hundred dollars ($200), but shall have no jurisdiction of trials involving the title to lands, and the judge of probate shall be ex-officio judge of the county court.

Sec. 4. Be it further ordained that a section be included in Article VI which shall read as follows: There shall be elected in such counties as county courts are established by this Constitution in this State, by the qualified voters of the county, a judge of probate who shall be learned in the law, and who shall, at the time of his election, and during his continuance in office, reside in the county for which he is so elected.

Sec. 5. Be it further ordained, that Section 23 of Article VI be amended as follows: By adding therein the following words,

"Who shall be ex-officio clerk of the County Court."

Sec. 6. Be it further ordained that the county court shall be open at all times for the trial of civil and criminal cases, provided, however, that said county court shall hold at least four (4) jury terms in each year.

Sec. 7. Be it further ordained that the commissioners court or board of county revenue shall fix the salary of the Judge of the county court at a sum not less than one thousand dollars ($1,000), the same to be paid out of the county treasury.

Referred to Judiciary Committee.

Ordinance No. 293, by Mr. Bulger.

An ordinance to regulate the right to vote in this State.

Be it ordained by the people of Alabama in convention assembled, that Article VIII of the present Constitution be stricken out and the following added in lieu thereof.

ARTICLE VIII.

Suffrage and elections.

Section 1. Every male citizen of the United States who is 21 years of age, possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election by the people, except as hereinafter provided.

1. He shall have resided in the State at least one year, in the county at least six months, and in the precinct or ward at least thirty days immediately preceding the election at which he offers to vote; Provided, that no soldier, sailor nor marine in the military or naval service of the United States, shall acquire a residence by being station in this State.

(2) He shall be able to read any section of the State Constitution or understand and interpret the same when read to him; Provided, this requirement shall not apply to any person or the descendants of any person who was a qualified voter anywhere in the United States on the 1st day of January, 1867.

(3) He shall have paid his poll tax for the year next preceding the year in which he offers to vote; Provided, the receipt of the tax collector or of any officer authorized to collect the same shall be prima facia proof of the payment of his taxes.

Sec. 2. All elections by the people shall be by ballot and all elections by persons in a representative capacity shall be viva voce.

Sec. 3. The following classes shall not be permitted to register, vote or hold office, to wit:

Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, or other crime involving moral turpitude punishable by imprisonment in the penitentiary.

Sec. 4. Electors shall in all cases except treason, felony or breach of the peace be privileged from arrest during their attendance at elections or while going to or returning therefrom.

Sec. 5. The General Assembly shall pass laws not inconsistent with this constitution to regulate and govern elections in this State, and in such laws shall be uniform throughout the State. The General Assembly may when necessary provide by law for the registration of electors throughout the State or in any incorporated city or town thereof, and when it is so provided, no person shall vote at any election unless he shall have registered as required by law.

Sec. 6. It shall be the duty of the General Assembly to pass adequate laws giving protection against the evils arising from the use of intoxicating liquor at all elections.

Sec. 7. Returns of elections for all civil officers who are to be commissioned by the Governor, except Secretary of State, State Auditor, State Treasurer, Attorney General, State Superintendent of Education and Commissioner of Agriculture, and for members of the General Assembly shall be made to the Secretary of State.

Referred to Committee on Suffrage and Elections.

Ordinance 294, by Mr. Burns:

An ordinance to amend Section 1, Article XVII of the present constitution.

Be it ordained by the people of Alabama in convention assembled, that Section 1 of Article XVII of the present constitution be amended so as to read:

Mode of amending the constitution.

Section 1. The General Assembly, whenever two-thirds of each house, shall deem it necessary, may propose amendments to the constitution, which having been read three times on three

successive days, shall be duly published, for the consideration of the people, in such manner as the General Assembly may direct at least three months before the next general election, at which representatives are to be elected, and it shall be the duty of the returning officer, and managers of each precinct of the next general election at which representatives are to be voted for, to open a poll for the votes of the qualified electors, on the proposed amendment; and to make return of the votes cast for and against to the Secretary of the State; and if it thereupon shall appear that a majority of the qualified electors of the State, who voted for Senators and members of the lower house voted in favor of the proposed amendment; said amendment shall be valid to all intents and purposes as parts of this constitution, and the result of such election shall be made known by proclamation of the Governor.

Referred to Committee on Amending Constitution and Miscellaneous Provisions.

Resolution 119, by Mr. Burns:

Resolved, that whereas it has been stated upon this floor, which statement has not been denied, refuted or controverted, that a stenographic, verbatim report of the proceedings of this convention can be furnished in pamphlet form and one thousand, or more copies of the same be delivered to the proper officers of the convention prior to the hour of convening each day, at a saving of at least $25 per diem to the tax payers of the State.

And whereas the publishing of the proceedings in proper pamphlet form would add to the convenience of the members, and to the saving of much expense in office of the secretary from day to day, as well as in the final preparation, for the publication of the journal.

That the Committee on Schedule, Printing and Incidental Expenditures be and hereby authorized to send for persons and papers and thoroughly investigate this subject as early as practicable, and report as early as convenient.

MR. LONG (Walker)—I ask the gentleman from Dallas if he won't consent to strike out the word twenty-five and insert the word fifty instead.

THE PRESIDENT—The motion would not be in order at this time.

Referred to Committee on Schedules, Printing and Incidental Expenditures.

Ordinance No. 295, by Mr. Cofer:

An ordinance to be entitled an ordinance to amend Section 5 of Article IV of the Constitution of Alabama. Regulating terms of the General Assembly of Alabama, and pay of members, officers and clerks.

Be it ordained by the people of Alabama, in convention assembled, That Section 5 of Article IV of the Constitution of the State of Alabama be amended so as to read as follows:

Section 5. The General Assembly shall meet every four years at the State Capitol in the Senate Chamber and in the Hall of the House of Representatives (except in cases of destruction of the Capitol or epidemics when the Governor may convene them at such place in the State as he may deem best) on the day specified in this Constitution, or on such other day as may be prescribed by law, and said General Assembly shall not remain in session longer than sixty days. Provided, further, that the officers, clerks and members of the General Assembly shall receive no compensation as per diem for days that they are not in session.

Referred to Committee on Legislative Department.

Ordinance 296, by Mr. Coleman (Walker):

Be it ordained by the people of Alabama, in convention Assembled:

First—That no county having a population exceeding 25,000 and taxable property exceeding $4,000,000, in which there is now a court having the same jurisdiction throughout the limits of the county as both Circuit Courts and Chancery Courts, shall be included in and judicial circuit or chancery division of this State after the expiration of the terms of office for which the present Circuit Judges and Chancellors were elected.

Second—That in all counties which now have or may hereafter have a population exceeding 25,000 and taxable property exceeding $4,000,000 in value, the General Assembly shall have power to establish City Courts or County Courts having the same jurisdiction as both Circuit Courts and Chancery Courts throughout the limits of such counties, and thereafter such counties shall not be included in any judicial circuit or chancery division; provided, that this section shall not take effect until after the expiration of the terms of office for which the present Circuit Judges and Chancellors were elected.

Third—That the General Assembly shall have the power, after the expiration of the time for which the present Chancellors were elected, to abolish the chancery court in any county in which a court shall have been established, having equity jurisdiction.

Referred to Judiciary Committee.

MR. CORNWALL—I yield my call to Mr. O'Neill of Jefferson.

Ordinance No. 297, by Mr. O'Neill (Jefferson):

Be it ordained by the people of the State of Alabama, in convention assembled, That no city or town in the State shall hereafter incur any bonded debt which, including existing bonded indebtedness, shall exceed 10 percentum of the assessed value of the taxable property therein, and no such debt shall be created without submitting the question as to the creation thereof to the qualified electors of such city or town and unless a majority of such electors voting on the question shall be in favor of creating such further bonded debt, none shall be created; provided, that this shall not be construed to prevent the issuing of certificates of indebtedness in anticipation of the collection of taxes for amounts actually contained or to be contained in the taxes for the year when such certificates are issued and payable out of such taxes.

And provided, further, That such cities or towns on the issuing of such bonds, create a sinking fund for the redemption thereof at maturity. Nothing herein contained shall prevent the issuing of bonds to an amount sufficient to refund bonded indebtedness existing at the time of the adoption of this Constitution.

Referred to Committee on Municipal Corporations.

Ordinance 298, by Mr. Fitts (of Tuscaloosa):

Be it ordained by the people of Alabama in Convention assembled that the Board of Trustees of the University of Alabama shall consist of nine persons to be elected by the people at the same time, in the same manner and for the same term of office as the Justices of the Supreme Court.

Referred to Committee on Education.

Ordinance 299, by Mr. Fitts:

Be it ordained by the people of Alabama in Convention assembled, That the Governor of the State shall be ineligible for any office of trust or profit under this State or the United States for the period of two years immediately next after the expiration of his term of office as Governor.

Referred to Committee on Executive Department.

Mr. Brooks here took the Chair.

Ordinance 300, by Mr. Graham (Montgomery):

An ordinance to prevent the General Assembly from depriving the municipalities of this State of their legitimate revenues.

Section 1. Be it ordained by the people of Alabama in Convention assembled: That the General Assembly of Alabama shall not enact any law which will permit a person, firm, corporation, company or association of any character, to pay a privilege, license or other tax, to the State of Alabama and relieve it from the payment of all other privilege and license taxes in the State.

Referred to Committee on Legislative Department.

Ordinance 301, by Mr. Graham (Montgomery):

An ordinance to amend Section 2 of Article IV of the Constitution of Alabama.

Section 1. Be it ordained by the people of Alabama in Convention assembled: That Section 2 of Article IV of the Constitution of Alabama be amended so as to read as follows: The style of the laws of this State shall be: "Be it enacted by the General Assembly of Alabama." Each law shall contain but one subject, which shall be clearly expressed in its title, except general appropriation bills, general revenue bills, and bills adopting a code, digest, or revision of statutes; and no laws shall be revived, amended, or the provisions thereof extended or conferred by reference to its title only; but so much thereof as it revived, amended, extended or conferred, shall be re-enacted and published at length. If any subject shall be embraced in an act which is not expressed in the title, such act shall be void only as to so much thereof as shall not be expressed.

Referred to Committee on Legislative Department.

Resolution 120, by Mr. Grayson:

Resolved, That all resolutions authorizing the payment of any money shall be adopted only by a yea and nay vote.

Referred to Committee on Schedule, Printing and Incidental Expenditures.

Resolution 121, by Mr. Long of Walker:

Resolved, That hereafter no appropriation or contract requiring the payment of money from the State treasury shall be passed by this Convention otherwise than by a yea and nay vote.

Referred to Committee on Rules.

Ordinance No. 302, by Mr. Long (Walker):

An ordinance to amend Section 12 of Article V. of the Constitution of Alabama.

Be it ordained by the people of Alabama in Convention assembled, That Section 12 of Article V. of the Constitution be amended by striking out all words after the word "power" of the first line that precedes "to" which is the first word of the third line of said Section 12.

Referred to Committee on Executive Department.

Mr. McMillan of Wilcox, yielded his turn to Mr. Miller of Wilcox, and handed in an ordinance by the latter, who was absent.

Ordinance No. 303 by Mr. Miller (Wilcox):

Amendment to Article 8, Constitution of 1875.

Be it ordained by the people of Alabama in Convention assembled:

First—That every male citizen of the United States who is 21 years of age, and who has resided in the State of Alabama for twelve months, and who has resided in the county for three months and in precinct or ward thirty days next preceding any election, and who can read and write the English language, and who pays taxes on $300 worth of property, and who has paid his poll tax, shall be an elector and entitled to vote at any election by the people, except as hereinafter provided.

Second—That the following classes shall not be permitted to register, vote or hold office, viz: Those who have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, or other crime punishable by imprisonment in penitentiary and those who are idiots or insane.

Third—That every male citizen of the United States who is 21 years of age and who has effected the residence required by Section one (1) as above stated, and who was a soldier or sailor in any of the wars of the United States or of the Confederate States, shall be entitled to vote, though he may not be able to comply with the educational or property qualifications required by Section one (1) of this ordinance.

Fourth—That every male citizen of the United States who is 21 years of age and who has effected the residence required by Section one (1) of this ordinance, and who is 21 years of age and who is a lineal descendant within the fourth degree of any soldier or sailor of any of the wars of the United States or of the Confederate States, shall be entitled to vote, though he may not be able to comply with the educational or property qualifications required by Section one (1) of this ordinance.

Fifth—That every male citizen of the State of Alabama who has effected the residence required by Section one (1) of this ordinance, and who was entitled to vote on the 1st day of January,

1867, shall be entitled to vote, though he may not be able to comply with the educational or property qualifications required by Section one (1) of this ordinance.

Sixth—That every male citizen of the State of Alabama who is over the age of 21 years and who has effected the residence required by Section one (1) of this ordinance, and who is a lineal descendant within the second degree of a citizen of the State of Alabama who was entitled to vote on the 1st day of January, 1867, though he may not be able to comply with the educational and property qualifications required by Section one (1) of this ordinance.

Seventh—That after the 1st day of January, 1908, all male citizens of the United States who offer to vote in the State of Alabama for the first time shall comply with the qualifications required by Section one (1) of this ordinance.

Eighth—That the Legislature of the State shall, at its first session after the ratification of this Constitution, provide by law for the registration of voters and the management of elections so as to secure a free ballot and a fair count.

Ninth—That Sections 4, 5, 6, and 7 of Article VIII. be reenacted as they now stand in the present Constitution.

Tenth—That every citizen of the United States who is over the age of 21 years and who has effected the residence required by Section one (1) of this ordinance, and who owns a home in the State of Alabama in his own right, or in the right of his wife, shall be entitled to vote though he may not be able to comply with the educational qualifications required by Section one (1) of this ordinance.

Eleventh—That no soldier, sailor or marine in the military or naval service of the United States shall acquire a residence by being stationed in this State.

Twelfth—That all elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce.

Referred to Committee on Suffrage and Elections.

Ordinance No. 304, by Mr. Milo Moody.

Be it ordained by the people of the State of Alabama in convention assembled, that the constitution be amended by adding the following article:

Section 1. In all primary elections for the nomination of officers by any political party, whether for State, county or municipality, shall be by ballot and no elector shall vote therein unless he be a legal voter entitled to vote in a general election under the constitution and laws of Alabama.

Sec. 2. No elector shall have the right to vote in any primary election directed by a party, for which such elector did not vote in a previous general election next before the primary in which he offers to vote.

Sec. 3. The managers, judges, clerks or other persons holding primary elections shall all take an oath before opening the polls to vote, to faithfully and honestly conduct said election, such oath to be administered by any officer authorized to administer oaths or in the absence of such officer they may administer such oath to each other, calling two witnesses thereto.

Sec. 4. Any officer of any political party charged with the duty of calling, directing and canvassing the returns of any primary election, who wilfully commits any fraud, shall be guilty of a misdemeanor.

Sec. 5. Any person who buys or sells his vote or any person who sells his time or influence for the election of any one for a valuable consideration, shall be guilty of a misdemeanor.

Sec. 6. Any person violating any of the foregoing sections relative to the primary election laws shall be guilty of a misdemeanor and upon conviction shall be fined not less than $50 nor more than $500, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months.

Referred to Committee on Amendments to Constitution and Miscellaneous Provisions.

Ordinance No. 305, by Mr. Mulkey.

Be it ordained by the people of Alabama in convention assembled, That Section 1 of Article X of the Constitution be amended by adding, immediately after the word "contracted" on the fifth line the word "or torts committed, or costs incurred in civil proceedings."

Referred to Committee on Judiciary.

Ordinance No. 306, by Mr. Mulkey:

Be it ordained by the people of Alabama in convention assembled, That Section 7 of Article X of the constitution be and the same is hereby repealed.

Referred to Committee on Exemptions.

Ordinance No. 307, by Mr. Murphree:

Be it ordained by the people of Alabama in convention assembled; that Section 7 of Article 1 of the Declaration of Rights of the Constitution of Alabama be and the same is hereby amended by adding to said section the following:

Persons consigned to imprisonment by commitment or other process, for violation of the criminal laws of the State shall be entitled to a speedy trial before the first court holden, having jurisdiction after commitment, and the committing magistrates must make such cases so returnable.

Referred to Committee on Preamble and declaration of Rights.

Ordinance No. 308, by Mr. Murphree:

Be it ordained by the people of Alabama in Convention assembled, That no corporation, society, organization or association shall be allowed to charge or collect for, or upon the loan or forbearance of money, goods, or things in action, either in the way of interest, fines, forfeitures, premiums, commissions, or sums of money for the purchase of stock, bonds or any interest in the business of such person, firm, corporation, society, organization or association, as a condition upon which such loan or forbearance is obtained, or in any other way connected with such loan or forbearance as a charge, a greater amount than the legal rate of interest provided for by the general laws of this State upon the loan or forbearance of money, goods, or things in action; and if any person shall have paid upon any debt any sum or sums of money for the purchase of stock, bonds, or any interest in the business of such person, firm, corporation, society, organization or association, as a condition upon which a loan or forbearance of money, goods or things in action is obtained or in the way of interest, fines, forfeitures, commissions, or in any other way, as is charged for or upon such loan or forbearance a greater amount than the sum necessary to pay the legal interest upon such loan or forbearance at the rate provided for by the general laws of this State for the loan or forbearance of money, goods, or things in action, such amount over and above the sum necessary to pay such legal date of interest shall be credited to the principal or forbearance.

Referred to Committee on Amending Constitution and Miscellaneous Provisions.

The President here resumed the Chair.

Ordinance 309, by Mr. Pillans.

An ordinance relating to the qualification for the exercise of the suffrage (Article VIII Constitution.)

Be it ordained by the people of Alabama in Convention assembled:

That no person shall be allowed to register or vote in this State unless he can speak the English language.

Referred to Committee on Suffrage and Elections.

Mr. Rogers (Lowndes) yielded his turn to Mr. Ferguson.

Resolution 122, by Mr. Ferguson:

A resolution concerning the suffrage.

Be it resolved by the people of Alabama in Convention assembled.

That the Committee on Suffrage and Elections be required to look into the legality and advisability of embodying the following suggestions, in the suffrage clause to be submitted to this Convention, conferring the right to vote as follows:

First—On those citizens of the State not otherwise disqualified, who were born in a State or bondage or servitude prior to the first day of January, 1863.

Second—On those citizens of the State and their descendants not otherwise disqualified, who were not born in a State of bondage or servitude, prior to the first day of January, 1863.

Referred to Committee on Suffrage and Elections.

MR. GRAHAM—I offered an ordinance a few moments ago, which was referred to the Committee on the Legislative Department. It was number three hundred. I was not paying attention at the time the reference was made. I would like to have it go to the Committee to which I think it should go, the Committee on Municipal Corporation.

The reference was changed as requested.

Ordinance No. 310, by J. W. A. Sanford:

An ordinance to constitute the Governor, Secretary of State, Auditor and Treasurer, Railroad Commissioners.

Whereas, the Governor, Secretary of State, Auditor, Treasurer now form a Board of Assessment of the property of railroad companies and of telegraph companies, and whereas, it is desirable that the officers of the State shall be as few as practicable.

Therefore, be it ordained by the people of Alabama in Convention assembled. That the Governor, Secretary of State, Auditor and Treasurer of Alabama, be and the same are hereby made Commissioners of Railroads, who shall exercise all the powers and authorities conferred by law on the existing Railroad Commission, and shall discharge all the duties thereof and shall have such other powers, and perform such other duties as the General Assembly may require.

Provided, That the terms of office of the present Railroad Commissioners shall not expire till the inauguration of the next elected Governor of the State.

Referred to Committee on Corporations.

Ordinance No. 311, by Mr. Sanford:

An ordinance to change the area of the counties by amending Section 2 of Article II. of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, That where the words "six hundred square miles" occur in Section 2 of Article II. of the Constitution of this State, they may be stricken out, and the words "four hundred square miles" be inserted in lieu thereof.

And no greater majority of votes in either house of the General Assembly shall be required to form new counties, or to establish the boundaries of counties, than is necessary for the enactment of any other law.

Referred to Committee on State and County Boundaries.

Ordinance No. 312, by Mr. Smith Mac A. (Autauga):

Be it ordained by the people of Alabama in Convention assembled, That Section 2 of Article GII. of the Constitution of said State be amended so as to read as follows:

No Convention shall hereafter be held for the purpose of altering or amending the Constitution of this State, unless the question of Convention or no Convention shall be first submitted to a vote of all the electors of the State, and approved by a majority of all the registered or qualified electors of the State.

Referred to Committee on Amending Constitution and Miscellaneous Provisions.

Ordinance No. 313, by Mr. Watts:

To amend Section 7, Article XI.:

Be it ordained, That Section 7, Article XI. be amended so as to read as follows:

Sec. 7. The General Assembly shall from time to time divide the towns, villages, cities and other municipalities of this State, which have less than 25,000 inhabitants, as shown by the last preceding Federal census, into classes, and shall fix from time to time the rate of taxation, not exceeding one-half of 1 per cent. of the value of the property, real and personal therein in any one year, which may be levied and collected by cities having more than 25,000 inhabitants, and by the different classes of towns, villages, cities and other municipal corporations having less than 25,000 inhabitants, and no town, village, city or other municipality shall levy and collect in any one year any greater rate of taxation upon the property contained therein than shall be authorized as above provided. Provided, that for the payment of debts existing at the time of the ratification of this Constitution and the interest thereon, and any renewals of said indebtedness, an additional rate of not exceeding three-quarters of 1 per cent. may be levied and collected, to be applied exclusively to such indebtedness or the renewals thereof. And provided, further, that the General As-

sembly may provide for the assessment and collection of taxes by towns, villages, cities and other municipalities, on property which has escaped taxation.

Referred to Committee on Municipal Corporations.

Ordinance No. 314, by Mr. Watts:

That Section 4, Article XI, be amended so as to read as follows:

Section 4. The General Assembly shall, from time to time, divide the counties of the State, which have less than 40,000 inhabitants, according to the last preceding Federal census, into classes according to population and shall fix from time to time the rate of taxation, not exceeding 1-2 of 1 per cent in any one year, which may be levied and collected by counties having more than 40,000 inhabitants, and by the different classes of counties having less than 40,000 inhabitants, and no county shall levy or collect in any one year any greater rate of taxation upon the property situated therein than shall be authorized as above provided, but the General Assembly may provide for the assessment and collection by counties of taxes on property which has escaped taxation. And the General Assembly shall also, from time to time, fix the rate of taxation, not exceeding 1-4 of 1 per cent in any one year, which may be levied and collected by counties having more than 40,000 population, and by counties in each of the classes having less than 40,000 inhabitants to be applied exclusively to payment of the principal and interest of debts now existing and the renewals thereof, and the General Assembly shall also fix from time to time the rate of taxation which any county may levy and collect, not exceeding 1-4 of 1 per cent in any one year to be devoted exclusively to public improvements within said county.

Referred to Committee on Taxation.

To amend Sections 1, 2 and 7, Article X, and to add a section.

Be it ordained, That Section 1 be amended by inserting after "shall be exempted," the words "and if all of his or her personal property is less than $1,000 in value, it shall, without claiming it, be exempt."

That Section 2 be amended by inserting between "eighty" and "acres," the words "contiguous and adjoining," and by adding at the end the words, "All laws allowing a larger or different exemption in realty are avoided."

That Section 7 be amended so as to read as follows:

Section 7. No waiver hereafter made of the right of exemption, real or personal, hereinbefore secured, whether made verbally or in writing, except a failure to claim the property as exempt before a sale thereof, shall be effective.

Section ——, to be added to Article X:

Be it ordained, That the wages of every resident of this State, not exceeding $25.00 per month, shall be absolutely exempt from garnishment or other process. Any officer who, knowing or having good reason to believe that the wages of any resident do not exceed $25.00 per month, issues or serves a garnishment or other process to subject any such wages to the payment of any debt owed or claimed to be owed by any such resident, shall be, and the sureties on his official bond shall be, and the person causing said process to be issued shall be liable to a penalty of $500, which may be recovered in a suit by the resident against whose wages said garnishment was issued.

Referred to Committee on Exemptions.

Ordinance No. 316, by Mr. Watts:

Independent section:

Be it ordained, That whenever personal property is sold upon an installment plan, with the right in the vendor to retake possession, the vendor shall, before retaking possession of any such property, pay or tender to the vendee not less than one-half of the money or other thing of value paid by the vendee or for the vendee towards the purchase of said personal property.

Referred to Committee on Judiciary.

Independent section:

Ordinance No. 317, by Mr. Watts:

Be it ordained, That no two or more corporations organized under the laws of this or any other State, or of the United States, shall consolidate or be operated together, or in connection with each other in this State, and no corporation shall own or hold stock in any other corporation. If any corporation organized under the laws of Alabama acquires or holds, after the ratification of this Constitution, any stock in any other corporation, the charter of the corporation so acquiring or holding any stock in another corporation shall be forfeited.

Section ——. No insurance or other company, corporation, or association of individuals, which has an agreement, contract or understanding of any kind or character with any other company, corporation or association of individuals by which it is understood or agreed that insurance shall be issued or maintained, or that anything shall be sold at a fixed price, common or essentially common, to all the companies, corporations and associations to said agreements, or that the net or other receipts of all or a part shall be divided or apportioned amongst all such companies, corporations and associations in any manner whatsoever shall be permitted to do business in this State. Every foreign corporation

which signifies its intention to do business in this State, must, before being permitted to commence said business in this State, file with the Secretary of State an affidavit of its president or other managing officer that it is not connected with any other corporation by any agreement or understanding whatever.

Referred to Committee on Corporations.

Ordinance 318, by Mr. Watts:

To add a section to Article VI and amend Section 25, Article VI.

Be it ordained, That the General Assembly may confer upon justices of the peace, notaries with powers of a justice of the peace, and upon mayors and recorders of towns or cities, final jurisdiction with right of appeal of all misdemeanors, and also the power to inquire into charges of felony and bind the defendant to a higher court. And the General Assembly may provide that all justices of the peace and notaries with the powers of justice of the peace in towns and cities, may exercise their jurisdiction, civil and criminal, in any precinct lying wholly or partly within the towns or cities, respectively, in which they reside.

That Section 25, Article VI, be amended so as to read as follows:

Sec. 25. A solicitor for each Judicial Circuit and all other solicitors provided for shall be appointed by the Governor by and with the approval of the Senate. The solicitor shall be learned in the law, shall at the time of his appointment and during his continuance in office, reside in the circuit or county for which he is appointed. He shall not practice law except as a solicitor. He shall receive no fees, but a fixed compensation, which shall not be greater than the compensation of the judge of the court of which he is solicitor. The partner of a solicitor shall not be allowed to defend in any criminal case. All solicitors must be at least 25 years of age. The term of office of solicitor shall not exceed six years.

Referred to Committee on Judiciary.

Ordinance No. 319, by Mr. Weakley:

Relating to the construction of street railways, gas, water, steam or hot water heating, telephone, telegraph, electric light or power plants in or on the streets, avenues or alleys of towns or cities.

Be it ordained by the people of Alabama in convention assembled, That no street railway, gas, water, steam or hot water heating, telephone, telegraph, electric light or power company within a city or town shall be permitted or authorized to construct its tracks, lay its pipes or mains, or erect its poles, or posts or other

apparatus, or string its wires upon the same, along, over, under or across the streets, alleys or public grounds of a city or town, without the consent of the proper municipal authorities of such city or town being first had and obtained.

Referred to Committee on Municipal Corporations.

THE PRESIDENT—The next order of business will be the call of the standing committees.

The calling of the roll for this purpose was started.

MR. WADDELL—I move we dispense with calling of the roll of the standing committees for reports.

THE CLERK—I think some are going to report.

THE PRESIDENT—Does the gentleman insist on his motion?

MR. WADDELL—No.

The call was continued and the Municipal Corporations Committee reported as follows:

The Committee on Municipal Corporations to whom was referred Ordinance No. 183 introduced by Mr. Boone of Mobile and Ordinance No. 186 introduced by Mr. Weakley of Lauderdale beg leave to report that they have considered the same and recommend the adoption of the following substitute by the convention.

John B. Weakley,

Chairman of Committee on Municipal Corporations.

June 5th, 1901.

Substitute by the Committee on Municipal Corporations for Ordinance No. 183 and Ordinance No. 186 relating to the organization and classification of cities.

An ordinance to regulate the organization and classification of cities and towns.

Be it ordained by the people of Alabama in convention assembled, That the General Assembly shall provide by general laws for the organization and classification of cities and towns; the number of such classes shall not exceed four, and the power of each class shall be defined by general laws so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions.

The General Assembly shall assign the towns and cities of the State to the class to which they respectively belong, and change assignments made as the population of such cities and towns increase or decrease, and in the absence of other satisfac-

tory information as to their population the General Assembly shall be governed by the last preceding federal census, provided, however, that any town or city in Alabama may in the year 1905 and every ten years thereafter cause a census of all of its inhabitants to be taken, and the General Assembly may change the classification of such town or city according to the results of such census.

Sec. 2. Any city having a population of more than twenty-five thousand inhabitants may frame a charter for its own government consistent with, and subject to the constitution and laws of this State, by causing a board of thirteen free-holders, who shall have been for at least five years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election; which board shall within ninety days after such election return to the chief magistrate of such city the draft of such charter signed by the members of such board or a majority of them. Within thirty days thereafter, such proposed charter shall be submitted to the qualified voters of such city, at a general or special election, and if four sevenths of such qualified voters voting thereat shall ratify the same, it shall at the end of thirty days thereafter become the charter of such city and superceed any existing charter and all special acts of the General Assembly relating to such city other than laws securing and enforcing the payment of debt of such city, and shall supercede any existing charter and amendments thereof. A duplicate certificate shall be made setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of such city, and authenticated by its corporate seal; one of such certificates shall be deposited in the office of the Secretary of State, and the other after being recorded in the office of the Judge of Probate or the county in which said city lies, shall be deposited among the archives of such city, andd all courts shall take judicial knowledge thereof.

Such charter so adopted may be amended by a proposal therefor published for at least thirty days in two newspapers of said city and accepted by three-fifths of the qualified voters of such city voting at a general or special election and not otherwise; but such charter shall always be in harmony with, and subject to the constitution and laws of the State of Alabama.

MR. SANFORD—I move to amend the report of the Committee by striking out that part of it which authorizes "a city of 25,000 or more to make its own charter and amend it at will.

MR. REESE—I rise to a point of order, that the Convention cannot now act on that report.

THE PRESIDENT—The rules require that the report of the Committee shall lie on the table and be printed. Amendments will be in order when it comes up for its third reading.

MR. SANFORD—That is satisfactory.

THE PRESIDENT—The ordinance having been read a second time to the Convention will lie on the table and will be printed.

THE CLERK—The Committee on Municipal Corporations also report as follows:

The Committee on Municipal Corporations to which was referred Resolution No. 23 introduced by Mr. Coleman, requiring bond issues and contracts maturing at a later date than twelve months to be first submitted to a vote of the people, beg leave to report favorably upon the attached substitute, and recommend its passage.

Jno. B. Weakley,

Chairman of Committee on Municipal Corporation.

June 5th, 1901.

Substitute for Ordinance No. 23:

Be it ordained by the people of Alabama in Convention assembled, That no county, city, town, village, district or other political sub-divisions of a county, shall have authority or be authorized, after the ratification of this Constitution, to issue bonds, or enter into contracts involving pecuniary obligations, which are to mature or be performed at a time more than twelve months from the date of such issue, or such contracts, unless such issue of bonds or such contracts shall have been first approved by majority vote by ballot of the qualified voters of such county, city, town, village, district or other political sub-division voting upon such proposition. In determining the result of any election held for this purpose no vote shall be counted as an affirmative vote which does not show upon its face that such vote was cast in approval of such issue of bonds, or of such contracts.

THE PRESIDENT—What will the Convention do with the report?

A motion was made that the Convention concur in the report of the Committee as to this ordinance.

MR. PETTUS—I rise to a parliamentary inquiry. What is the effect if that motion is carried?

THE PRESIDENT—To concur in the report of the Committee on the ordinance.

MR. PETTUS—Then the motion is only with reference to the adverse report?

THE PRESIDENT—Yes.

MR. REESE—I desire to ask this question: This is an ordinance that has been reported.

THE PRESIDENT—Adversely.

MR. REESE—It has been reported to the Convention, but adversely. Now a construction of Rule 47 might imply that that would have to take the same course as the other. The rule makes no very clear distinction between an adverse and a favorable report.

THE PRESIDENT—The Chair would rule it does not apply to the adverse report.

MR. PETTUS—I am informed that the author of the resolution is not in the hall and I think it would be courtesy to him to pass it until he is present.

THE CLERK—He has just come in.

MR. FOSTER—I rise to a point of inquiry. If this report is concurred in can the resolution be taken from the adverse calendar?

THE PRESIDENT—We have no rule as to placing matters adversely reported on the adverse calendar. It has been reported adversely by the Committee and it is now before the Convention.

MR. CARMICHAEL (Coffee)—In what shape would that ordinance be if the report of the Committee reporting the ordinance adversely should be adopted by the Convention. Would it require a reintroduction to bring it before the Convention?

THE PRESIDENT—If the Convention concurs in the adverse report, it seems it would dispose of the ordinance.

MR. CARMICHAEL (Coffee)—If the Convention does not concur in the adverse report, what status would it have?

THE PRESIDENT—It would put it before the Convention.

MR. CARMICHAEL (Coffee)—Immediately? Do I understand the Chair to say that it could come up for passage prior to the ordinance that is reported favorably?

THE PRESIDENT—It seems to the Chair it would go on the calendar if the Convention refuses to concur in the adverse report.

MR. BROOKS—In order to obviate any uncertainty about that, if that ordinance is laid on the table can it not be taken up at any time? And in the meantime the Rules Committee can give us some rule on this subject.

A vote was taken and a motion to table was carried.

On the call the Committee on Schedule, Printing and Incidental Expenses reported favorably on Resolution No. 25 offered by Mr. Boone, as follows:

Resolved, That the Secretary of this Convention be, and he is hereby instructed to preserve five copies of the printed stenographic report of the proceedings of this Convention, and when said report is completed, to cause the same to be bound and deposited in the office of the Secretary of State.

THE PRESIDENT—That will lie upon the table and be printed.

MR. REESE—I desire to make an inquiry, as to the adverse report of the Committee on Corporations. Will that take the same course as a favorable report. Will that rejected ordinance be printed and furnished to the members?

THE PRESIDENT—The ordinance lies on the table on the motion of the gentleman from Mobile unless it is taken from the table.

MR. WILLIAMS (Marengo)—I ask unanimous consent to introduce a resolution to cover the point raised.

MR. CARMICHAEL (Coffee)—The Chairman of the Committee on Municipal Corporations says he will not resist taking from the table my resolution and postponing it with the report. I, therefore, move that we take the ordinance from the table and then will move to postpone it to the further day on which the report comes up.

MR. HEFLIN (Randolph)—I rise to a point of order.

THE PRESIDENT—The hour of adjournment has arrived.

MR. HEFLIN—That was my point.

MR. PRESIDENT—The clock has just struck and the Convention stands adjourned until tomorrow at 10 o'clock.

THIRTEENTH DAY

MONTGOMERY, ALA.,

Thursday, June 6, 1901.

The convention was called to order by the President and the proceedings were opened with prayer by the Rev. Mr. Provence, as follows:

Almighty God, Lord of Lords, and King of Kings, we come into Thy presence again at the beginning of our day's work to ask Thy guidance and Thy blessing. We thank Thee for preserving our lives and our health and our strength and bringing us to-

gether for the day's duties. We could not take up any task of life without asking Thy help. We would not embark in any pursuit of life without asking Thy guidance. So while we thank Thee for all the blessings Thou hast so freely given us in the past, we realize our continued need of Thy presence and Thy blessing. We pray that Thy presence may be felt here today. Grant that everything that is done may be in accordance with Thy will, that these members of this convention who come from all parts of the State to transact business of great importance may come in the right spirit, laying aside every unworthy motive, laying aside all partisan bias and working and planning together for the best interests of our State as a whole. So we pray that they may have Divine wisdom to guide them, that they may do the best thing.

Bless the homes that are represented here. Bless all the loved ones left behind and grant that Thy spirit may keep charge over them protecting them from every evil thing. Guide them in the way of life, and peace, and duty and honor. Bless every member of this convention and every committee to whom is entrusted matters of great importance.

Let Thy blessing abide upon us all in every walk of life. May we do everything for thy glory, for Jesus sake, Amen.

On roll call 129 delegates responded.

Mr. Williams (Marengo)—I ask leave of absence for Mr. Williams of Elmore for today, who is sick.

The leave was granted.

MR. WHITE—I am requested to ask leave for the Committee on Suffrage and Elections to sit during today's session of the convention.

The leave was given.

MR. WATTS—I am requested to ask leave of absence for today for Mr. Bulger of Tallapoosa.

MR. deGRAFFENREID — As the convention has excused the members of the Suffrage Committee from attending the session today, and as I find upon my desk an ordinance to regulate the organization and classification of cities and towns in Alabama, I want to ask the Chair whether it would be the ruling of the Chair that that matter may come up for consideration and final action today. This ordinance makes a great many important changes. Some of the changes will affect the own of Greensboro, and the Southern University, which is situated in that town, and if it is to be considered and passed upon I will have to be here.

THE PRESIDENT—If that order of business is reached in the regular call, in the opinion of the Chair it would be in order to be considered today.

MR. deGRAFFENREID—Then Mr. President I ask unanimous consent, and move a suspension of the rules and that the consideration of this ordinance be set down for a hearing and discussion at some future day when all of us can be present.

MR. OATES—Does it require a suspension of the rules? A motion is in order to postpone.

MR. deGRAFFENREID—Then I move, if it be in order, that the consideration of this ordinance be deferred until next Tuesday.

THE PRESIDENT—That order of business is not up before the convention now, and without a suspension of the rules the Chair is of the opinion that it cannot be considered.

MR. deGRAFFENREID—Then I move a suspension of the rules in order that I may make that motion.

Upon a vote the rules were suspended.

MR. deGRAFFENREID—Now Mr. President I move that the consideration of this ordinance be set down for hearing and determination by this convention on next Tuesday.

MR. ROGERS (Sumter)—What ordinance does the gentleman refer to.

MR. deGRAFFENREID—It is the ordinance to regulate the organization and classification of cities and towns, which was reported on yesterday by the Committee on Municipal Corporations.

MR. ROGERS (Sumter)—By Mr. Boone of Mobile?

MR. deGRAFFENREID—It was reported by Mr. John B. Weakly, the chairman of the Committee on Municipal Corporations to the Convention.

THE PRESIDENT—I will inquire of the chairman if the report of the committee related only to that ordinance?

THE CLERK—No, there are two or three ordinances.

MR. BOONE—The chairman of that committee is absent and I am second on the committee. The report of the committee covers two propositions.

THE PRESIDENT—Does the gentleman from Hale apply his motion to the whole report?

MR. deGRAFFENREID—To the entire report.

THE PRESIDENT—To what time?

MR. deGRAFFENREID—Eleven o'clock Tuesday.

THE PRESIDENT—The gentleman from Hale moves that the consideration of the report of the Committee on Municipal Corporations on the ordinance to regulate the organization and classification of cities and towns be postponed and made a special order for 11 o'clock on next Tuesday.

MR. SAMFORD—I move as a substitute for that motion that the consideration of this report be postponed until the committee shall have reported a full article upon the head of the constitution they are considering.

MR. deGRAFFENREID—I accept that amendment.

THE PRESIDENT—Does the gentleman intend to move to recommit or does he want it to continue before the convention?

MR. SAMFORD—If they want them to stay before the convention all right. I move to postpone the consideration of these ordinances or of these reports before the convention until the committee shall report a full article on the subject in their charge, for the consideration of the convention.

MR. WADDELL—I rise to a point of order. The rules fix the time when ordinances shall be considered and unless the rules are suspended this cannot now be considered.

THE PRESIDENT—The rules have been suspended in this particular case and the gentleman from Hale moves that the further consideration of this report of the Committee on Municipal Corporations be postponed until the committee reports a full article affecting this question.

A vote being taken the motion was carried.

MR. FLETCHER—I ask leave of absence for today for Mr. O'Neal of Lauderdale.

The leave was granted.

MR. GREER (Perry)—On account of sickness in my family I was unable to report until this morning, and I ask that I may be excused for my unavoidable absence.

THE PRESIDENT—Leave of absence was obtained by some friend of the gentleman from Perry.

MR. BYARS—I wish to ask indefinite leave of absence after today on account of sickness.

The leave was granted.

MR. MAC. A. SMITH—I ask leave of absence for tomorrow on account of business.

MR. DAVIS (De Kalb)—I ask leave of absence for tomorrow and next day.

MR. PEARCE—I desire to ask leave of absence for Mr. Long (of Walker) on account of the illness of his father.

MR. JENKINS—I desire to ask leave of absence for Mr. Lomax for today.

MR. ROBINSON — The stenographic report of yesterday does not set out the adverse report of the Committee on Municipal Corporations upon the ordinance introduced by Mr. Carmichael of Coffee, and neither the adverse report of the committee nor the ordinance introduced by the gentleman from Coffee is shown in the report. I desire to ask if it is not necessary that that should be in the stenographic report.

THE PRESIDENT—According to the opinion of the chair the report of the committee should be in the stenographic report. The chair does not recollect that the committee made any report except to state that is was adversely reported. It should so appear in the report, and the stenographer will correct it in the next issue.

The next order of business is the report of the Committee on the Journal. The report was read, and stated that the Journal was correct.

Upon motion of Mr. Greer (Perry) the report of the committee was adopted.

THE PRESIDENT—The Secretary will call the roll for the introduction of ordinances, memorials and resolutions:

Ordinance No. 320, by Mr. Banks:

Section 1. Be it ordained by the people of Alabama in convention assembled, That Article V. of the Constitution be so amended as to provide for the election of ten County Commissioners in each of the several counties of this State who shall be organized into a Commissioners Court that shall be presided over by the Judge of Probate of the county, and in addition to the duties prescribed by Section 958 of the revised Code of Alabama shall be required to assess the taxes, State and county, upon all property in the county in the manner provided in Section 4 of this ordinance.

Sec. 2. Each county shall be divided into ten subdivisions as nearly equal in area as practicable and the map of each of these subdivisions shall be made, giving the sections, half sections, quarter sections and eighths of sections embraced in each and a map of all towns or cities situated in each division.

Sec. 3. One commissioner shall be elected from each of these subdivisions as follows: At the first State and county election held after the ratification of this Constitution five commissioners shall be elected, one from each alternate subdivision to hold the office of commissioner for the term of eight years and five shall

be chosen, one from each of the remaining subdivisions to hold the office of commissioner for four years. In all subsequent elections five commissioners shall be chosen every four years whose term of office shall continue for eight years.

Sec. 4. Each commissioner shall be provided with a map of the subdivision from which he was chosen and it shall be his duty to assess the taxes, State and county, upon all property embraced in his subdivisions according to such regulation and for such commissions as the Legislature of Alabama shall prescribe.

Sec. 5. It shall be the duty of the Commissioners Court to review the tax lists from each subdivision of the county, correct all errors and act as a board of equalization of the value of all taxable property in the county under such rule and regulations as the General Assembly of Alabama shall provide.

Referred to Committee on Executive Department.

Ordinance No. 321, by Mr. Espy:

Be it ordained by the people of Alabama in Convention assembled, That Section 1 of Article VI be amended so as to read as follows:

The judicial power of the State shall be vested in the Senate sitting as a court of impeachment, a Supreme Court, to consist of not more than seven judges, Circuit Courts, Chancery Courts, Courts of Probate and Justice of the Peace Courts, and the Legislature shall not have power to establish any other court except those herein named.

Referred to Committee on Judiciary.

Ordinance 322, by Mr. Foshee:

Be it ordained by the people of Alabama in convention assembled, That the representation in the General Assembly be based on the white population only.

Referred to Committee on Representation.

Resolution No. 123, by Mr. Foster:

Whereas this convention has now been in session two weeks, and a great many ordinances have been introduced and referred to the several committees, and

Whereas, the ordinances, heretofore introduced relate to the amending of only a few of the provisions of the present Constitution, thus manifesting the desire of the delegates to retain intact most of the provisions of the present Constitution, and

Whereas, longer and more frequent sessions of the several committees are necessary to expedite the work of this convention;

Therefore, be it resolved:

1.—That after the 10th day of June inst., no ordinances proposing amendments to the present Constitution, or additions thereto, shall be introduced before the convention.

2.—That when the convention adjourns on the 10th inst., it recess for one week.

3.—That the several standing committees shall, during such recess, hold daily sessions, and shall on the first day of the meeting of the convention after such recess, report back to the convention for its action, articles or chapters, for the proposed new constitution, which relate to or affect the subjects indicated by the titles of the respective committees.

4.—That such articles or chapters as reported shall be typewritten and in a completed or entire form, and sub-divided into sections, such sections being consecutively numbered, after the manner of the present constitution.

5.—That nothing herein contained shall be construed so as to prevent any delegate from proposing amendments to the reports of the several committees.

Referred to the Committee on Rules.

Ordinance No. 323, by Mr. Grayson:

An ordinance to repeal Section 8 of Article II of the constitution.

Be it ordained that Section 8 of Article II of constitution be, and the same is hereby repealed.

Referred to the Committee on Taxation.

Ordinance No. 324, by Mr. Harrison (Lee):

An ordinance to amend Section 21, Article IV of the Constitution:

Be it ordained by the people of Alabama in convention assembled, that Section 21, Article IV, of the present constitution be amended so as to read as follows:

Every bill shall be read on three different days in each house; and no bill shall become a law unless on its final passage it be read at length and a vote be taken by yeas and nays, the names of the members for the same to be entered on the Journal, and a majority of the members elected to each House be recorded thereon as voting in its favor, except as otherwise provided in this constitution.

Referred to the Committee on Legislative Department.

Ordinance No. 325, by Mr. Heflin (of Randolph):

Be it ordained by the people of Alabama in convention assembled, that Section 3, 5 and 6 of Article IV of the Constitution of Alabama be amended so as to read as follows:

Senators and Representatives shall be elected by the qualified electors on the first Monday in August, 1902, and all the Senators and Representatives shall be elected every four years thereafter unless the General Assembly shall change the time of holding elections. The terms of office of the Senators and Representatives shall be four years, commencing on the day after the general election.

The General Assembly shall meet biennially at the Capitol in the Senate Chamber and in the Hall of the House of Representatives (except in cases of destruction of the Capitol or epidemics, when the Governor may convene them at such place in the State as he may deem best) on the day specified in this Constitution or on such other day as may be prescribed by law, and shall not remain in session longer than 60 days at the first session held under this Constitution, nor longer than fifty days at any subsequent session.

The pay of the members of the General Assembly shall be five dollars per day and ten cents per mile in going to and returning from the seat of Government, to be computed by the nearest usual route traveled.

Referred to Committee on Legislative Department.

MR. HENDERSON—I yield by turn to Mr. Sanders of Limestone.

Resolution No. 124, by Mr. Sanders:

Resolved, that hereafter all requests for leaves of absence shall be in writing, and laid upon the President's desk each morning before the assembling of the convention. The President shall announce the names of those for whom leave of absence is sought, and if there be no objection, leave shall be granted. Said request may be proffered by any member for other members.

MR. SANDERS—For the purpose of putting that resolution upon its immediate passage I move a suspension of the rules.

A reading of the resolution was called for by Mr. Reese. On a vote the convention refused to suspend the rules and the resolution was referred to the Committee on Rules.

Resolution No. 125, by Mr. Jackson:

Resolved, That all ordinances or resolutions referred to the Committee on Rules and reported back to this Convention without action thereon by said Committee, shall be placed upon the calendar to be called up in their regular order.

Referred to Committee on Rules.

Resolution 126, by Mr. Kirk:

Relating to the Formation of a new counties:

Resolved, That in the Constitution to be framed by this Convention, it shall be provided that no new county shall be formed of less extent than six hundred square miles as now provided by the Constitution of 1875.

Referred to Committee on State and County Boundaries.

Ordinance No. 326, by Miller (Marengo):

An ordinance to provide for the election of County Superintendent of Education, and the County Board of Education and to define their duties.

Be it ordained by the people of Alabama in Convention assembled, that there shall be elected in each county by the people a Superintendent of Education and who shall hold office for the term of four years, who shall not be eligible to succeed himself or to hold any other office during his term of office and for twelve months thereafter, whose duties shall be fixed by law, except as herein otherwise provided.

2. At the time of the election of said superintendent there shall be elected in the same manner two school commissioners whose term of office shall expire with the one of the Superintendent.

3. The superintendent together with the two commissioners shall constitute a board, known as the school board of —— County, whose duty it shall be have general supervision over the schools of the county and who shall hold at least two meetings a year to examine applicants for teachers, and such examination they shall hold in person. They shall provide separate schools for both races, which shall be of equal length of school term in each district or township, and shall perform such other duties as are required by law.

4. The legislature shall fix the pay of the commissioner and his associates.

5. No one shall be eligible to election to any of the three offices, unless he has sufficient education to perform the duties of the office.

Referred to the Committee on Education.

Ordinance No. 327, by Mr. Pearce:

Be it ordained by the people of Alabama in Convention assembled:

Section 1. That after the adoption of this Constitution no person learned in the law shall be eligible to hold any office under the State except of a judicial nature.

Referred to the Committee on Judiciary.

MR. BAREFIELD—I am requested to ask leave of absence for today for Mr. L. W. Locklin of Monroe, on account of sickness.

The leave was granted.

Ordinance No. 328, by Mr. Samford:

Be it ordained that Section 21, Article I. be amended so as to read as follows:

That no person shall be imprisoned for debt, except in cases where a person enters into a contract in writing for the performance of an act or service, and thereby obtains money or other personal property from his employer, and without just cause, and without refunding such money or paying for such, refuses to perform such act or service.

Referred to the Committee on Preamble and Declaration of Rights.

Ordinance No. 329, by Mr. Sanford (Montgomery):

An ordinance to strike out Section 35 from the Declaration of Rights.

Be it ordained by the people of Alabama in Convention assembled, That the Declaration of Rights be amended by striking out Section 35, which is in these words: "The people of this State accept as final the established fact that from the Federal Union there can be no secession of any State.

Referred to Committee on Preamble and Declaration of Rights.

MR. SLOAN—I rise to a question of personal privilege. The official list has my postoffice address wrong. I so notified the secretary on the first day of the session. On reading the list of delegates in the book of rules, I find that the change has not been made. I wish to inform you and the officers of the Convention, and the members, my postoffice address is not Sloan, Ala., but it is Oneonta, Ala., forty-five miles from Sloan postoffice.

THE PRESIDENT—The Secretary will note the correction.

Resolution No. 127, by Mr. Mac A. Smith (Autauga):

Resolved, That whenever a Committee has voted adversely to an ordinance, resolution, petition or memorial which has been referred for its consideration, such adverse action need not be reported by the Committee to the Convention unless the same be called for by a vote of one-fifth of the members present, when such ordinance, resolution, petition or memorial shall then be reported by the Committee with its adverse action thereon, and the same shall be placed on the Calendar and come up in regular order for consideration by the Committee.

Referred to Committee on Rules.

Ordinance No. 330, by Mr. Watts.

Be it ordained by the people of Alabama in Convention assembled, That the General Assembly be and they are hereby authorized and instructed to acquire by purchase or condemnation if the terms of purchase cannot be agreed upon, all of the lands in the city of Montgomery not now owned or occupied by the State Capitol and the grounds thereof, comprised within the block or square bounded by the following streets, viz.: Bainbridge, Washington, Union and Monroe.

Second—That after the said lands have been so acquired the buildings thereon shall be sold and removed and said land so acquired shall be made a part of the Capitol grounds and be ornamented and arranged in the same manner as the other parts of the Capitol grounds are or shall in the future be ornamented and arranged.

Referred to Committee on Legislative Department.

Resolution No. 128, by Mr. Williams (Elmore):

To base representation in the General Assembly of Alabama upon the voting population of the various counties of the State.

Be it resolved by this Convention, That all representation in the General Assembly of Alabama shall be fixed by this Convention and be based upon the voting population of the several respective counties of the State.

Referred to Committee on Representation.

Ordinance No. 331 by Mr. Williams (Marengo):

An ordinance to regulate the conveying of homesteads by executory contract.

Be it ordained by the people of Alabama in Convention assembled, That whereas, very recently in the case of Lyon vs. Hardin, 29 Southern Reporter, 777, the Supreme Court of Alabama declared a law to be that a homestead cannot be conveyed by executory contract, commonly called options, Therefore, the attention of the Committee on Exemptions is called to this de-

cision with the suggestion that they carefully investigate the case and if deemed advisable report an ordinance permitting transfers and conveyances of homesteads to be made by option and other executory contracts, as provided for other real estate.

Referred to Committee on Exemptions.

MR. BROOKS—I desire to offer a resolution by request of the gentleman from Montgomery, Mr. Oates, who is at present on the Committee on Suffrage and Elections elsewhere.

Resolution No. 129, by Mr. Oates:

Resolved, That the Committee on Legislative Department be authorized to employ a clerk for so long as said Committee may need his services.

MR. BROOKS—I ask the clerk to read the note by Governor Oates on the inside.

The note was as follows: The above resolution is offered at the unanimous request of the Committee.—William C. Oates.

MR. BROOKS—I move that the rules be suspended so that that Resolution may be put upon its passage.

A reading of the resolution was called for. Upon a vote, a division being called for, it resulted 58 ayes, 6 noes, and the motion to suspend the rules was carried. Upon a further vote the resolution was adopted.

MR. CARMICHAEL (of Colbert)—I wish to introduce a resolution.

THE PRESIDENT—It can be done by unanimous consent.

The consent was given.

Resolution 130 by Mr. Carmichael of Colbert:

Resolved that hereafter the Committee of the Convention shall not report to the Convention ordinances and resolutions which have been adversely acted upon; provided, any member of the Convention may on any day immediately after the report of the Committee to which an ordinance has been referred and adversely acted upon, move to recall said ordinance from said committee and said ordinance may upon a majority vote of the convention be placed upon the calendar for consideration by the Convention; provided this resolution shall not apply to the Committee on Rules.

Referred to Committee on Rules.

MR. COFER—I desire to make the point of order on the passage of the resolution just now, that there was no quorum.

MR. HEFLIN (Chambers)—I make the point of order that the gentleman's point of order is made too late.

MR. COFER—I did not have the opportunity until after the vote was announced.

MR. BROOKS—I don't think that is a good point of order, where the vote is not taken by the yeas and nays.

THE PRESIDENT—It seems to the chair that other business has intervened and the point is made too late.

Upon the call of the Standing Committees no reports were offered.

MR. WADDELL (Russell)—I move that this convention do now adjourn.

Before putting the motion to adjourn the President announced various committee meetings for the evening, and thereupon the convention adjourned until to-morrow morning at 10 o'clock.

CORRECTIONS

In Section 5 of Ordinance No. 289, by Mr. Banks, introduced on twelfth day, the word "officers" in the fourth line from bottom of second page should read "offices."

The adverse report of the Committee on Municipal Corporations was read as a part of the twelfth day's proceedings, as follows:

The Committee on Municipal Corporations to whom was referred Ordinance No. 78, entitled an ordinance to regulate the granting of franchises by municipal corporations, introduced by M. S. Carmichael, beg leave to report that they have considered the same, and recommend to the Convention that the same do not pass.

JNO. B. WEAKLEY,
Chairman Committee on Municipal Corporations.

June 5th, 1901.

FOURTEENTH DAY

MONTGOMERY, ALA.,

Friday, June 7, 1901.

The Convention was called to order by the President and the proceedings were opened with prayer by the Rev. Mr. Elliott, as follows:

Our Father and our God, we feel that we should thank Thee for that good Providence that has been over us during the night. We feel that Thy mercies are precious to us this morning as we meet again for this day's work and we come into Thy presence feeling our Father that the very best service we can render unto Thee today and unto our country will be in vain unless Thou art with us. We pray that Thou wilt cause Thy Holy Spirit to guide and direct us in all that we attempt to do this day.

We thank Thee Our Father for the large degree of kindness with which Thou hast blest Thy servants. We thank Thee, Oh God for the pleasant surroundings Thou hast given them. We thank Thee that Thou hast given them a reasonable portion of health and strength, and hast enabled them to do the work which they have been called to do. We pray Thee Our Father that each and every one of them may realize the responsibilities and the privileges which Thou hast given them. We pray Thee Our Father to bless the presiding officer during this day and all of his assistants. We pray that Thou wilt remember the families and the loved ones who are absent today, wilt Thou keep them unto the hollow of thy hand and shield them from all harm. These blessings we ask for the Redeemer's sake, Amen.

The roll was called and 131 delegates responded.

MR. CHAPMAN—I ask leave of absence for today for Mr. Carnathan of Choctaw.

The leave was granted.

MR. JACKSON—I am requested to ask leave of absence for Mr. Norwood of Lowndes for tomorrow.

The leave was granted.

MR. WADDELL—Mr. Chapman asked leave of absence for today for Mr. Carnathan. I will state he requested me to ask for indefinite leave of absence as he had received a letter that his family was quite sick.

Indefinite leave was granted.

MR. COLEMAN (Greene) — The Committee on Suffrage asks to be excused from attending the session of the convention today.

The members of the committee were excused.

MR. BETHUNE—I desire leave of absence for tomorrow.

The leave was granted.

MR. FORSHEE—I desire leave of absence for Mr. Freeman until Tuesday of next week.

The leave was granted.

MR. MARTIN—I ask leave of absence for tomorrow.

The leave was granted.

MR. BARTLETT—I wish to ask for a leave of absence for myself for tomorrow and Monday.

The leave was granted.

MR. GRAHAM (Talladega)—I desire to ask leave of absence for Mr. Ledbetter of Talladega for today and tomorrow.

The leave was granted.

MR. JONES (Montgomery)—I ask to be excused for absence on yesterday. I do not get around very well and the House had adjourned before I could get here.

THE PRESIDENT—Leave was obtained for the gentleman for yesterday.

MR. M. M. SMITH—I desire leave of absence for tomorrow and Monday.

The leave was granted.

MR. BURNETT—I desire to ask leave of absence for myself for tomorrow.

The leave was granted.

MR. KIRKLAND—I desire leave of absence for tomorrow and Monday.

Leave was granted.

MR. BURNS—I desire leave of absence for Mr. Carnathan—

THE PRESIDENT—Indefinite leave of absence has been granted Mr. Carnathan.

MR. MAXWELL—I ask leave of absence for Colonel Bulger for today.

Leave was granted.

MR. RENFRO—I move that when we adjourn today we stand adjourned until 12 o'clock Monday.

(Cries of No.) A division was called for.

MR. JONES (Montgomery)—I would ask unanimous consent of the Chair and members to make one short statement as to why we should not adjourn.

Leave was given.

MR. JONES (Montgomery)—The Committee on the Executive Department is ready to report and its report will furnish material for members to go to work on at once.

A vote being taken the motion to adjourn until 12 o'clock Monday resulted 50 ayes and 64 noes.

MR. BROWN—I am requested to get leave of absence or excuse for the non-attendance of the gentleman from Macon. Mr. Cobb, on yesterday, on account of sickness.

The excuse was accepted.

MR. HOWELL—I was called out of the city on yesterday and left word with a friend, but leave of absence was not asked for on yesterday, and I desire to be excused for being absent.

The excuse was accepted.

MR. LEIGH—I desire to ask leave of absence for myself for tomorrow.

The leave was granted.

MR. SMITH (Mobile)—I desire to make a report for the Rules Committee.

The report was read as follows:

The Committee on Rules beg leave to report that it has had under consideration the resolution hereinafter mentioned and begs to report thereon as follows:

The Committee reports back to the Convention Resolution No. 114, introduced by Mr. Sanford of Montgomery, without recommendation on its part, for the action of the Convention.

The Committee herewith returns to the Convention the resolution hereinabove mentioned.

A reading of the resolution being called for, the resolution was read as follows:

Resolution No. 114, by Mr. Sanford (Montgomery):

Whereas in eight States and Territories of the Union the Eagle alone or in combination with other figures form the great seal; and

Whereas, the great seal of a State should be distinctive, and symbolic of some event in its history, or of some peculiarity in its topography or of some characteristic of its people;

Therefore, be it resolved that a committee of nine, one from each Congressional District, be appointed by the President of the Convention, to suggest and recommend to the Convention a de-

sign for a great seal of Alabama, which shall be different from the seal of any other State or Territory.

Referred back to the Convention by the Committee on Rules without recommendation.

MR. SMITH (Mobile)—I move the adoption of the report of the Rules Committee.

MR. SANFORD—I move that that resolution be put upon its passage.

THE PRESIDENT—In the opinion of the chair where a committee reports a resolution, as in this case, without recommendation, no action of the Convention on the report is necessary.

MR. SMITH (Mobile)—I withdraw my motion then.

THE PRESIDENT—The gentleman from Montgomery will please again state his motion. The chair failed to catch it.

MR. SANFORD—I move that that resolution just read and reported back to the Convention for its action be now taken up and put upon its passage.

THE PRESIDENT—Does the gentleman move the adoption of the resolution?

MR. SANFORD—I do.

A vote being taken the resolution was not adopted.

MR. HEFLIN (Randolph)—I desire leave of absence for myself for tomorrow.

Leave was granted.

MR. KIRK — I request leave of absence for tomorrow and Monday.

THE PRESIDENT—The next order of business will be the calling of the roll of delegates for the introduction of Ordinances, Memorials and Petitions.

MR. PROCTOR—I would call the attention of the Chair to the fact that the report of the Committee on Journal was not called for.

THE PRESIDENT—The gentleman will send up the report.

The report that the Journal for the thirteenth day was found to be correct was read and on motion adopted.

THE PRESIDENT—The Secretary will now call the roll of delegates for ordinances.

Ordinance No. 332, by Mr. Blackwell:

An ordinance to amend Article VIII of the Constitution regulating the right to vote, by striking out the whole of said Article and substituting.

Be it ordained by the people of Alabama in Convention assembled:

First—Every male person born in the United States and every person who has been naturalized, who is 21 years of age and more, and possessing the qualifications set out in this Article, shall be entitled to vote at any election by the people in this State, except as herein otherwise provided.

Second—He shall have resided in the State of Alabama two years, in the county one year, and in the precinct, ward or other election district in which he offers to vote for six months next preceding the election; provided, that removal from one precinct, ward, or other election district to another in the same county shall not operate to deprive any person of the right to vote in the precinct, ward, or election district from which he removed until six months after such removal. Provided, that no soldier, sailor nor marine in the military service of the United States shall acquire residence by being stationed in this State. No person who has been convicted or who has confessed his guilt in open court upon indictment, of any crime, the punishment of which now is or may hereafter be, imprisonment in the penitentiary, shall be allowed to vote, unless said person has been restored to citizenship in the manner prescribed by law. No idiot or insane person or vagrant shall be allowed to vote.

Third—Every person offering to vote, shall be at the time a legally registered voter as herein prescribed, and in the manner hereafter provided by law, and the General Assembly of Alabama shall enact general registration laws to carry into effect the provisions of this article.

Fourth—Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language; and before he shall be entitled to vote he shall have paid on or before the 1st day of January of the year in which he offers to vote, all taxes, including a poll tax (where he is liable for such tax) for two years previous. But no male person who was, on January 1st, 1867, or at any time prior thereto, entitled to vote under the laws of any State wherein he resided, and no lineal descendant of any such person shall be denied the right to register and vote at any election in the State by reason of his failure to possess the educational qualifications herein prescribed; provided, he shall have registered in accordance with the terms of this section prior to January 1st, 1911. The General Assembly shall provide for the registration of all persons entitled to vote without the educational qualification herein prescribed, and shall on or before December the first, 1910, provide for the making of a permanent record of such registration, and all persons so registered shall forever thereafter have the right to vote in all elections by the people in this State unless disqualified under Section 2 of this Article.

Fifth—All elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. Every ballot shall be numbered in the number in which it shall be received and the number recorded

by the election officers on the list of voters opposite the name of the elector who presents the ballot. Any elector may write his name upon the ticket he votes, or cause the same to be written thereon, and attested by a citizen of the district. The election officers shall be sworn, (or affirmed), not to disclose how any elector shall have voted, unless required to do so as witnesses in judicial proceedings.

Sixth—If any person give or offer to give directly or indirectly, any bribe, present, or reward, or any promise or any security for the payment or delivery of money or any other thing of value, to induce any voter to refrain from casting his vote or to prevent him in any way from voting, or to procure a vote for any candidate, or person proposed, or voted for as elector of President or Vice-President of the United States, or Representative in Congress, or for any office of trust or profit, created by the Constitution and laws of this State, or by authority of any Mayor and Council of any town or city in this State, the person giving or offering to bribe, and the person receiving the same, and any person who gives or causes to be given an illegal vote, knowing it to be such, at any election to be hereafter held, in this State, shall, on conviction in a Court of Law, be forever disqualified to hold any office of trust or profit, or to vote at any election thereafter in this State.

Seventh—In trials of contested elections, and in proceedings for the investigation of elections, no person shall be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him, in any judicial proceedings, except for perjury in giving such testimony.

Eighth—The trial and determination of all contested elections of any and all public officers shall be by courts of law, and the General Assembly shall by proper legislation provide for the speedy trial of the same.

Ninth—Electors shall in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, or while going to and returning therefrom.

Tenth—It shall be the duty of the General Assembly to provide adequate laws giving protection against the evils arising from the use of intoxicating liquors at all elections.

Eleventh—Every voter in this State, except as in this Article disqualified, shall be eligible to hold office, but before entering upon the duties of the office he shall take and subscribe the following oath:

I do solemnly swear (or affirm) that I will maintain and support the Constitution and laws of the United States, and the Constitution and laws of the State of Alabama, and that I will faithfully discharge the duty of my office, so help me God.

Twelfth—No person shall vote in any primary election, or in any Convention or in any other political assembly held for the purpose of nominating candidates for public office unless he is at the time a registered voter.

Referred to Committee on Suffrage and Elections.

Resolution No. 131, by Mr. Burns:

Resolved, first, That the Committee on Judiciary be requested to frame an ordinance that will prohibit Justices of the Peace trying or finally disposing of criminal cases wherein they are entitled to fees or costs, to define their jurisdiction, as to territory and misdemeanors.

Resolved, second, That it is the sense of this Convention that no judicial officer should ever be interested in the termination or result of any case, criminal or civil, over which he may have jurisdiction; and that he should be paid the sum of three dollars for each criminal case brought before and legally disposed of by him, to be paid through the Probate Judge of his county.

Referred to the committee on Judiciary.

Resolution No. 132, by Mr. Carmichael (Colbert):

Resolved, That the Committee on Order, Consistency and Harmony of the Constitution shall include in its report of the proposed Constitution all of the provisions of the present Constitution not amended, altered, changed or stricken out, as well as all amendments, changes and additions that may be made to the present Constitution.

Referred to the Committee on Rules.

Resolution No. 133, by Mr. Carmichael (Colbert):

Resolved, That the several standing committees shall not report to the Convention any ordinance, unless the same amends, changes, alters or adds to the present Constitution or strikes out parts thereof, and when so reporting, shall only report the section amended, changed or altered, or the proposed addition.

Referred to the Committee on Rules.

Resolution No. 134, by Mr. Jones (Montgomery):

Resolved, That the President express to Governor W. J. Samford the deep interest of the members of this Convention in his welfare, and their earnest wishes for his speedy restoration to health.

MR. JONES (Montgomery)—I move the suspension of the rules and that that resolution be put on its passage.

A vote being taken, the rules were suspended.

MR. BURNS—I move that the Convention adopt that resolution by a rising vote.

A rising vote being taken, the resolution was unanimously adopted.

THE PRESIDENT—The other paper sent up by the delegate is a report from a committee and is not in order at this time.

MR. JONES (Montgomery)—As an individual member of the House, I have a right to offer any resolution whether I do it as chairman of a committee or as an individual member.

THE PRESIDENT—The chair is of the opinion that the proposition would not be in order as a report of a committee until that order of business is reached.

MR. JONES (Montgomery)—I do not care to contest the matter with the chair.

Resolution No. 135, by Mr. Knight:

A resolution to abolish the offices of State and County Back Tax Commissioners.

Resolved, That the Constitution about to be framed shall contain a provision abolishing the offices of State and County Back Tax Commissioners.

THE PRESIDENT—To what committee does the delegate desire this resolution referred?

MR. KNIGHT—I don't care, but suggest the Committee on Legislative Department.

THE PRESIDENT—The chair thinks that the proper reference for a resolution abolishing an office would be to the Committee on the Executive Department, and the resolution is so referred.

Ordinance No. 333, by Mr. Lomax:

To amend the Constitution of Alabama by adding to Article IV a Section as follows:

Sec. —. No bill which does not apply to the whole State (except bills creating and regulating municipal corporations and bills fixing the time of the holding of courts and prescribing rules for procedure therein) shall be introduced into either house of the Legislature after the twentieth legislative day of the session nor shall any such bill be considered or passed by either house after the twenty-fifth legislative day of the session; nor shall any bill which applies to the whole State be amended by either house after the twentieth legislative day of the session so as to confine its operations to a part of the State.

Referred to Committee on Local Legislation.

Ordinance 334, by Mr. Nesmith by request of Mr. Graves:

To amend Article VIII of the Constitution.

Section 1. The following and none others shall be qualified electors and entitled to vote at elections by the people in this State. Those male citizens of the United States twenty-one years old and upward who have been bona fide residents of this State for at least one year, of the county for at least three months and of their voting ward or precinct at least thirty days next immediately preceding the election at which they offer to vote, who shall have been duly registered and enrolled as qualified electors of the county and ward or precinct of which they are residents, under the provisions of this Constitution and the laws enacted thereunder.

Sec. 2. Except as is herein otherwise provided, the following shall be entitled to be enrolled and registered as qualified voters of the county and ward or precinct of which they are residents, under the provisions of this Constitution and the laws enacted thereunder.

First—Those who own and pay taxes upon ten thousand dollars' worth of property, as evidenced by the Tax Collector's books of the county of which they are residents for the next year preceding.

Second—Those who were foreign born.

Third—Those who are related either by affinity or consanguinity or both, within the twentieth degree, as computed by the Civil law, to any one who was a qualified elector in any State or Territory of the American Union on January 1st, 1867, or prior thereto.

Provided that none that are idiots or insane or that have been convicted of a felony, unless pardoned, shall in any case register or vote.

Sec. 3—In each county of this State a Board, consisting of Probate Judge, Sheriff and Circuit Clerk of such county shall elect a Public Registrar for their respective counties, who shall hold office for a term of four years, and shall receive such compensation as the Court of County Commissioners or Board of Revenue of their respective counties shall provide.

Sec. 4—The Public Registrar in each county shall by himself or Deputy register and enroll all electors of his county qualified under the provisions of this Constitution at their own request, and shall furnish to each of such electors a certificate of such registration, which certificate shall be dated, and show whether such elector is qualified under the first, second or third classification as set out in session 2 of this Article. And such Registrar shall enroll in well bound books a full and complete list of all registered electors of his county, arranged alphabetically by precincts, or by wards and precincts and such enrolled list shall show the date of registration and class of qualification of each elector, and when completed such registration books shall be deposited in the Probate office of the respective counties as a public record open to the inspection of all.

Sec. 5.—Registration books shall be considered closed three months next before a general election, and shall be deposited in the Probate office of the respective counties not less than sixty days next before such election;

provided that a registered elector who wishes his name changed from the list of any ward or precinct to another ward or precinct in the same county may, upon application to the Probate Judge of his county, have such change made upon proof of such residence in the precinct or ward in which he wishes to vote, as entitles him to vote therein, such application to be made not less than fifteen days next preceding such election, and such change shall be made without cost to the applicant, and provided also that when a registered voter of any county moves to another county of this State he may apply to the Probate Judge of his county for a certificate of enrolled registration, which shall be furnished to such applicant free of charge, and such Judge shall thereupon strike from the roll such name, such certificate shall be dated and show the date of registration and class of qualification. The Probate Judge of the county to which such applicant has moved, shall, upon the presentation of such certificate and proof of the identity of the applicant, and of such residence as entitled him to vote in the county to which he has removed, thereupon, without charge to the applicant, enter the name of such applicant upon the enrolled list of registered electors of his county in the proper precinct or ward, but no Probate Judge shall give a certificate of enrolled registration less than three months next before a general election, nor shall any Probate Judge enter upon the registration rolls of his county the name of any such applicant, who presents a certificate more than one year old. The enrolled registration lists of each county shall be corrected and revised by striking therefrom those that are dead, or that have become disqualified under the first class as set out in Section 2 of this Article, and by adding thereto any qualified elector whose names are not thereon, at intervals of not less than two years as the General Assembly may prescribe, provided, however, that no elector who shall have once registered under the second or third classifications set out in the second section of this article shall be required to do so again.

Sec. 6—It shall be the duty of the General Assembly to provide speedy and adequate remedies for the violation of any suffrage right under this Constitution, and to enact all laws that may be necessary to carry out the provisions of this article.

Referred to Committee on Suffrage and Election.

MR. PILLANS—I am requested by Mr. Smith (Mobile) to whom a communication from an eminent and very respectable colored man came today, to send it up to the desk and have it read to the Convention.

THE PRESIDENT—Does the gentleman make a motion that the communication be read?

MR. PILLANS—I do.

THE PRESIDENT—Unless there is objection the communication will be read.

The communication was read as follows:

MEMORIAL

Mr. President and Members of the Constitutional Convention, Montgomery:

Dear Sirs—Perhaps the most important matter to be considered by your august body is the question bearing on the civil and political rights of the negro.

Speaking as an ex-slave, a native of Alabama, with an experience as a public man covering a period of nearly thirty years, all of which time has been spent in the moral, educational and religious interests of my race, permit me to say, that every law-abiding property holding, intelligent negro in Alabama, everyone with a family, and contributes by his material wealth and worth to the common wealth and worth of our great State—is looking with abiding faith to your Convention, and hoping that in the framing of the organic law of Alabama, you will recognize the following facts:

First—That the negro and the Southern white man, in the providence of God, are here together and here to stay.

Second—The interests of the two races are identical, and like the union of the States, "one and inseparable."

Third—The intelligent, law-abiding negro is a patriotic and loyal citizen of his State.

Fourth—The law-abiding negro has used well the privileges granted him in acquiring education, in accumulating property, in establishing himself in the confidence of his neighbors, and in elevating himself as a citizen.

Fifth—The intelligent and law-abiding negro in every community where he lives seeks the aid and approbation of his sympathetic and fair-minded white neighbor.

Sixth—The feeling of amity and mutual dependence between the better classes of the two races is growing stronger in every community where their interests merge into each other.

Seventh—The better class of colored people strongly desire to unite with the better class of white people on common ground for the material and the economic advancement of our great and resourceful State.

Eighth—The intelligent negro, conscious of the liberality and partiality of the white tax payers of the State, is grateful for the enormous expenditure of money upon the common schools of his race—a sum far exceeding the amount paid into the treasury by the tax-payers of his own race. This of itself by the law of gratitude, binds us to our white fellow citizens with ties which only the white Southern man himself can sever.

Ninth—Last but not least, the better classes of the two races in the South are closer together now, and understand each other better than in any other period since the days of reconstruction.

Now, if you admit the above statement of facts, allow me to respectfully ask of your august body.

That you so frame your organic law on the suffrage and school questions that the intelligent, struggling, honest, law-abiding, patriotic negro citizen will be encouraged in his efforts to elevate himself to a standard worthy the name of Southern citizenship—a standard at once reflecting credit on himself and his great State.

By doing this you will not only justify the abiding faith of your "brother in black," but your names will go down with honor to posterity, and in the ages to come, generations will rise up and call you blessed.

Respectfully submitted,

A. F. Owens, Pastor, Etc.

Mobile, June 6th, 1901.

THE PRESIDENT—Does the gentleman from Mobile desire that the communication should be referred to the Committee on Suffrage and Elections?

MR. PILLANS—That is with the President. I have no request to make.

THE PRESIDENT—Without some motion—

MR. HOWELL—I move that it be referred to the Committee on Suffrage and Elections.

THE PRESIDENT—It will be so referred.

Ordinance No. 335, by Mr. Porter:

To repeal Section 7 of Article X of the Constitution of Alabama.

Be it ordained by the people of Alabama in Convention assembled, That Section 7 of Article X. of the Constitution, which is in these words: "The right of exemptions hereinbefore secured, may be waived by an intrument in writing, and when such waiver relates to realty, the instrument must by signed by both the husband and the wife, and attested by one witness," be and the same is hereby repealed.

Referred to Committee on Exemptions.

Resolution No. 136, by Mr. Porter:

Resolved, That on and after the passage of this resolution, all requests for leave of absence shall be reduced to writing, and sent to the Secretary's desk by 12 o'clock of each day and passed on by the Convention at that hour, and that no other requests for absence shall be considered at any other time.

Referred to Committee on Rules.

Ordinance No. 336, by Mr. Reynolds (Chilton):

Be it ordained by the people of Alabama in Convention assembled, That it shall not be lawful for anyone to hire or to cause to work in any factory or other public work, except a farm, any boy under the age of 12 years, or any girl under the age of 14 years. And any person hiring any such boy or girl for such work shall be imprisoned and fined therefor in accordance with a law to be enacted by the General Assembly. And such an act on the part of a corporation shall ipso facto forfeit the charter of said corporation.

That no parent shall receive or appropriate to himself or herself, the wages or earnings of their children, nor shall the earnings of said children be paid over to said parents, but to a guardian, appointed by a court, who shall keep and use such money and earnings for the benefit of the child itself, until discharged by the appointing court. Provided, that said guardian shall pay over a portion of said wages to such parents as may be invalids and thereby incapacitated to earn a support. The General Assembly shall enact appropriate legislation to enforce this provision.

Referred to Committee on Corporations.

Ordinance No. 337, by Mr. Reynolds (Chilton):

Be it ordained by the people of Alabama in Convention assembled, That Section 5 of Article VIII. of the Constitution of the State of Alabama be amended so as to read as follows:

All laws creating, regulating or affecting boards or officers charged with the duty of registering voters, or of distributing ballots at the polls to the voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such board or officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner as the said parties may publicly make known at least thirty days before the election.

Referred to Committee on Suffrage and Election.

Ordinance No. 338, by Mr. Reynolds (Chilton):

Be it ordained by the people of Alabama in Convention assembled, That Section 2 of Article VIII, of the Constitution of the State of Alabama be amended so as to read as follows:

All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce. And every ballot voted shall be numbered in the order in which it shall be received, and the number recorded by the election officers on

the list of votes, opposite the name of the elector who represents the ballot. Any elector may write his name upon the ticket, or cause the same to be written thereon, and attested by a citizen of the district. The election officers shall be sworn or affirmed not to disclose how any elector shall have voted, unless required to do so as witnesses in judicial proceedings.

Referred to Committee on Suffrage and Elections.

Ordinance No. 339, by Mr. Reynolds (Chilton):

Be it ordained by the people of Alabama in Convention assembled, that Article VIII of the Constitution of the State of Alabama be amended by adding thereto the following as Sections 8 and 9:

Sec. 8. Any person who shall give, or promise, or offer to give, to any elector, any money, reward or other valuable consideration, for his vote at an election or for withholding the same or who shall give or promise to give, such consideration to any other person or party for such elector's vote or for the withholding thereof, any money, reward, or other valuable consideration for his vote at an election or for withholding the same, shall thereby forfeit the right to vote at such election; and any elector whose right to vote shall be challenged for such cause, before the election officers shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received.

Sec. 9. Any person who shall, while a candidate for office, be guilty of bribery, fraud or wilful violation of any election law, shall be forever disqualified from holding an office of trust or profit in this Commonwealth; and any person convicted of willful violation of the election laws, shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely, for a period of ten years.

Referred to the Committee on Suffrage and Election.

Ordinance No. 340, by Mr. John W. A. Sanford:

An ordinance to amend Section 21 of Article IV, of the Constitution of Alabama.

Be it ordained, that Section 21 of Article IV of the Constitution be amended by adding to the said section the words, "That the journal of the Senate and House of Representatives shall state that the bill was read at length at the time of its passage, and unless the journals shall show this fact, the said law shall be invalid. Provided, That the statement of the journals of the Senate and House of Representatives may be denied, the truthfulness of the entry be inquired into like any other question in a court of justice.

Referred to the Committee on Legislative Department.

Ordinance No. 341, by Mr. Smith, M. M. (of Autauga):

An ordinance for the equitable distribution of the surplus moneys arising from the sale of fertilizer tags.

Whereas, a much larger amount of money is annually collected from the special tax on commercial fertilizers than is needed for the running expenses of the Department of Agriculture; and

Whereas, this tax is every dollar paid by the farmers who buy and consume the fertilizer; and

Whereas, Justice and fair play demand that a special tax levied on one class for the avowed benefit of that class, should be expended honestly according to the intention of the law; and

Whereas, A surplus amounting to and belonging solely to the farmers has been recently and improperly turned into the general funds; and

Whereas, Another large surplus has already accumulated which threatens to disappear in the same illegitimate way; therefore

Be it Ordained, By the people of Alabama, in Convention assembled:

Sec. 1.—All receipts of the Agricultural Department from the sale of fertilizer tags and licenses and from any miscellaneous sources shall be set aside as a separate fund in the State Treasury. After deducting the salaries, costs of tags, general running expenses one-sixth of the net income for the Agricultural and Mechanical College, Experiment Stations, and $2,500 for an Agricultural High School in each Congressional District, the remainder shall be expended on paying the board of poor farmer boys at the said Agricultural District Schools.

Sec. 2—At each of the Agricultural District Schools a boarding department for 100 boys shall be established, to which only boys resident in the district shall be entitled to board free, provided only boys shall be admitted free whose parents or other persons charged with their support, are unable to pay their maintenance, and boys whose parents or other persons charged with their support, pay taxes on less than $1,000 worth of real estate and personal property, shall be eligible to admission.

Sec. 3.—That at each of the White Normal school, at the Agricultural and Mechanical College, and at the Industrial School for Girls, there shall be established a boarding department at which only poor boys and girls whose parents or other persons charged with their support pay taxes on less than $1,000 of property, shall be admitted free of charge; and the General Assembly shall de-

termine the number to be admitted free to each of the schools named in this section, to be not less than 50 at any one school, and their maintenance shall be provided for by the General Assembly either by setting aside a portion of the incomes of the several schools to this purpose or by appropriations to the general fund.

Sec. 4.—The General Assembly shall, at its first session after the adoption of this Constitution, provide the manner in which selections shall be made at each and all the schools named in the foregoing sections, of boys and girls entitled to free board, and shall enact such further legislation as is necessary for the carrying out in letter and spirit of such preceding sections.

Referred to Committee on Legislative Department.

Mr. Whiteside yielded his turn to Mr. Burns of Dallas, but the latter not being in the hall the call was continued.

Resolution No. 137, by Mr. Williams (Elmore):

Resolution to provide for the distribution or disposal of the poll taxes collected under the suffrage clause adopted by this Convention.

Be it resolved. That if this Convention adopts the payment of a poll tax as a requisite qualification to suffrage, that said poll taxes shall be applied to the support of the public schools in the counties in which such taxes are levied and collected.

Referred to the Committee on Education.

THE PRESIDENT—The next order of business is the call of the Standing Committees.

On the call the Committee on the Executive Department reported as follows:

MR. PRESIDENT—The Committee on the Executive Department instructed me to report herewith, an ordinance to take the place of the Article in the present Constitution on the subject.

The Committee has not deemed it necessary to report specially upon the several ordinances or resolutions referred to it. All of them have been maturely considered, and the principles of some have been incorporated in the Article. The reading of the Article as reported will enable the Convention and the authors of the ordinances and resolutions referred to us to see how far their respective suggestions have been adopted. These ordinances and resolutions are herewith respectfully returned.

The material changes reported are as follows:

The office of Lieutenant Governor is created. The name of the office of Commissioner of Agriculture is changed to that of Commissioner of Agriculture and Industries, and both are made

officers of the Executive Department. The terms of the officers of the Executive Department elected hereafter are lengthened from two to four years. The Lieutenant Governor, the Commissioner of Agriculture and Industries, and the Superintendent of Education are included among the officers, the returns of whose election are required to be directed to the speaker. To remove uncertainty as to the Speakers powers and duties under Section 4, in counting the votes it is provided that his duties are ministerial, and his decisions subject to the control of the Joint Convention. The officers of the Executive Department, after the first election under the Constitution, are made ineligible to succeed themselves. The Governor is made ineligible to any office under this State within one year after the expiration of his term; and his acceptance of the office is a pledge to the people not to accept an election or appointment to the Senate of the United States during his term, or at any time within one year thereafter. The salary of the Governor is fixed at five thousand dollars per annum, to take effect on the adoption of the Constitution, and the Article contains the usual limitations upon the legislative power to increase or diminish the compensation of the Executive officers during their term.

Section 9 of the present Article of the Constitution has been amended to provide for the case of a refusal to give information, when required by the Governor.

A Board of Pardons is created to meet on the call of the Governor, which shall sit in public, before whom shall be laid all recommendations or petitions for commutations, paroles or pardons in cases of felony, which must advise with the Governor; after which, or delay to act for more than sixty days, the Governor may act as to him seems best for the public interest. He is also required to report to the General Assembly, the opinions of the Board of Pardons, as well as his own reasons, in all cases of felony, in which he acts favorably.

Section 13 of the present Constitution has been amended, so as to authorize the two Houses when the Governor vetoes a bill, to amend it to meet his objections, instead of passing it over his veto. And the Governor is given ten days after final adjournment in which to approve bills, before him at that time. A recess of the General Assembly as well as an adjournment excuses the Governor from returning a bill within six days, the time fixed in the Article within which, if the General Assembly is in session, the Governor must return a bill, or it will become a law. Section 14 provides the procedure in case of a veto of a part of any appropriation bill, to remove doubt, heretofore existing, whether the original bill shall be returned in such case.

Careful provision is made in Section 15, defining the order of succession when the Governor dies, resigns or is removed from

office, and when he is impeached, or absent or under other disabilities; and specific provision is made for the contingency of the Governor-elect's failure or refusal, or that of the Lieutenant Governor-elect, to qualify from any cause, and the succession defined in that event.

Section 16 is a new provision, to meet the contingency of the Governor or other officer administering the office of Governor, becoming of unsound mind, and provides for the ascertainment thereof. Similar provision is made with reference to the other officers of the Executive Department.

Section 20 is a new Section, prohibiting the Governor from appointing any member of the General Assembly to office, during the term for which the member shall have been elected.

A new Section has been added, constituting the Governor, Lieutenant-Governor, and Attorney-General a Board of Conciliation, with provision for the addition of two citizens in each case, if thought proper, for the adjustment of differences between employer and employee. The finding of the Board is to be advisory merely; unless both parties have agreed in writing, in advance, to perform the award, when it may be enforced by proceedings in the courts, under rules and regulations to be prescribed by law.

A new Section has also been added allowing the Governor, Auditor and Treasurer, or the Governor and either of the other officers, when there is a surplus in the Treasury, not immediately needed, to loan it out on call, or for such time as they may deem advisable, taking bonds of the United States or of this State as collateral to the full amount loaned, with interest, and providing how such loans shall be made.

The Section regarding Sheriffs has been amended, to provide in substance: if a prisoner is taken from the custody of the law, owing to the neglect, connivance, cowardice, or other grave fault, of the Sheriff, and is put to death, or suffers grievous bodily harm, the Sheriff may be impeached before the Supreme Court, and the Governor is authorized after hearing to suspend the Sheriff from office, until the impeachment proceedings are determined.

The Committee refrains from discussing at this time the reasons for the changes reported, since the merits or demerits of the amendments will readily occur to the members, and be fully disclosed and discussed when the proposed Article is passed upon by the Convention. Upon three of the amendments the members of the Committee are not all agreed; and as to these the dissenting members reserve liberty of action, without now making a final minority report.

Thos. G. Jones, Chairman.

MINORITY REPORT.

The undersigned member of the Committee on Executive Department does not concur in the report of the Committee as to Sections 7 and 27, and he offers as a substitute for Section 7 the following:

Sec. 7. The Governor, Lieutenant-Governor, Secretary of State, State Auditor and Attorney-General shall receive compensation for their services, which shall be fixed by law, and which shall not be increased or diminished during the term for which they shall have been elected, and shall, except the Lieutenant-Governor, reside at the State Capital during the time they continue in office, except in cases of epidemic.

And he further recommends that Section 27, (which relates to the loaning of money in the State Treasury) as reported by said Committee, be stricken out and do not pass.

Respectfully submitted,

Watkins M. Vaughan.

An ordinance to create and define the Executive Department.

Be it ordained by the people of Alabama in convention assembled, That Article V of the Constitution be stricken out, and the following Article inserted in lieu thereof:

ARTICLE V.

Executive Department.

Section 1. The Executive Department shall consist of a Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education, Commissioner of Agriculture and Industries, and a sheriff for each county.

Sec. 2. The Supreme Executive power of this State shall be vested in a Chief Magistrate, who shall be styled "The Governor of the State of Alabama."

Sec. 3. The Governor, Lieutenant Governor, Secretary of State, State Treasurer, State Auditor, Attorney General, Superintendent of Education and Commissioner of Agriculture and Industries, shall be elected every four years by the qualified electors of this State, at the same time and places appointed for the election of members of the General Assembly.

Sec. 4. The returns of every election for Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education, and Commissioner of Agriculture and Industries, shall be sealed up and transmitted by the returning officers to the seat of government, and directed to the Speaker of the House of Representatives, who shall during the first week of the session to which said returns shall be made, open and publish them in the presence of both houses

of the General Assembly in joint convention; but the Speaker's duty shall be purely ministerial in this respect and any objection to any return on account of informality, defect or other cause, shall be decided by the Speaker, subject to the control of the majority of the joint convention. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more persons shall have an equal and the highest number of votes for the same office, the General Assembly, by joint vote, without delay, shall choose one of said persons for said office. Contested elections for Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education and Commissioner of Agriculture and Industries shall be determined by both Houses of the General Assembly, in such manner as may be prescribed by law.

Sec. 5. The Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, State Auditor, Superintendent of Education and Commissioner of Agriculture and Industries shall hold their respective offices for the term of four years from the first day of December of the year in which they shall have been elected, and until their successors shall be elected and qualified, and after the first election under this Constitution neither of them shall be eligible as his own successor, and the Governor shall not be eligible to election to any office under this State within one year after the expiration of the office of Governor shall be a pledge to the people not to accept an election or appointment to the Senate of the United States at any time during his term or within one year thereafter.

Sec. 6. The Governor and Lieutenant Governor shall each be at least 30 years of age when elected, and shall have been citizens of the United States ten years and resident citizens of this State at least seven years next before the date of their election. The Lieutenant Governor shall be ex-officio President of the Senate, which shall elect a President protem from among its own members, who shall discharge the duties of the Lieutenant Governor in the Senate, whenever he is absent or disqualified.

Sec. 7. The Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education, and Commissioner of Agriculture and Industries shall receive compensation for their services, which shall be fixed by law, and which shall not be increased or diminished during the term for which they have been elected, and with the exception of the Lieutenant Governor, shall reside at the capital. After the adoption of this Constitution, the compensation of the Governor shall be $5,000 per annum, which shall not be thereafter decreased or diminished during the term for which he shall have been elected.

Sec. 8. The Governor shall take care that the laws be faithfully executed.

Sec. 9. The Governor may require information in writing, under oath, from the officers of the Executive Department named in this Article, or created by statute, on any subject relating to the duties of their respective offices; and he may at any time require information in writing, under oath, from all officers and managers of State institutions, upon any subject re-

lating to the condition, management, and expenses of their respective offices, and institutions. Any such officer or manager who makes a wilfully false report, or fails without sufficient excuse to make such report when demanded, is guilty of an impeachable offense.

Sec. 10. The Governor may by proclamation on extraordinary occasions, convene the General Assembly at the seat of government, or, at a different place, if since their last adjournment, that shall have become dangerous from an enemy, insurrection, or other lawless outbreak, or from any infectious or contagious diseases; he shall state specifically in such proclamation each matter concerning which the action of that body is deemed necessary.

Sec. 11. The Governor shall, from time to time, give to the General Assembly information of the State of the Government, and recommend to their consideration, such measures as he may deem expedient; and at the commencement of each regular session of the General Assembly, and at the close of his term of office, give information, by written message of the condition of the State; and he shall account to the General Assembly, as may be prescribed by law, for all moneys received and paid out by him, or by his order; and, at the commencement of each regular session, he shall present to the General Assembly estimates of the amount of money required to be raised by taxation for all purposes.

Sec. 12. The Governor shall have power to remit fines and forfeitures, under such rules and regulations as may be prescribed by law; and after conviction, to grant reprieves, paroles, communications of sentence and perdons. The Attorney General, Secretary of State and State Auditor, shall constitute a Board of Pardons, who shall meet on the call of the Governor, and before whom shall be laid all recommendations or petitions for pardon or commutations or paroles in cases of felony; and the Board shall hear them in open session, and give their opinion in writing to the Governor thereon after which or on the Board's failure to advise for more than sixty days, the Governor may grant or refuse the commutation, parole or pardon, as to him seems best for the public interest. He shall communicate to the General Assembly at each session, each case of reprieve, commutation, parole, or pardon with his reasons therefor, and the opinion of the Board of Pardons, in each case required to be referred; stating the name, the crime of the convict, the sentence, its date, and the date, of reprieve, commutation, parole, or pardon. Pardons in cases of felony, and other offenses involving the crimen falsi, shall not relieve from civil and political disabilities, unless specifically expressed in the pardon.

Sec. 13. Every bill which shall have passed both houses of the General Assembly shall be presented to the Governor; if he approve, he shall sign it, but if not, he shall return it with his objections to that House in which it shall have originated, who shall enter the objections at large upon the journal and proceed to reconsider it. If the Governor's message proposes amendment which would remove his objections, the House to which it is sent may so amend the bill, and send it with the Governor's message to the other House, which may adopt, but can not amend said amendment; and both

houses concurring in the amendment, the bill shall again be sent to the Governor and acted on by him as on other bills. If the House to which the bill is returned, refuses to make such amendment, it shall proceed to reconsider; and if a majority of the whole number elected to that House, shall vote for the passage of the bill, it shall be sent with the objections to the other House, by which it shall likewise be reconsidered, and if approved by a majority of the whole number of that House, it shall become a law. If the House to which the bill is returned makes the amendment and the other House declines to pass the same, that House shall proceed to reconsider, as though the bill had originated therein, and such proceedings shall be taken thereon as above provided. In every case, the vote 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 upon the journals of each House respectively. If any bill shall not be returned by the Governor, Sundays excepted, within six days after it shall have been presented, the same shall become a law in like manner as if he had signed it, unless the General Assembly, by their adjournment or recess, prevent its return, in which case it shall not be a law; but bills presented to the Governor within five days before the adjournment of the General Assembly may be approved by the Governor at any time within ten days after the final adjournment, if approved and deposited with the Secretary of State within that time. Every vote, order or resolution to which concurrence of both houses may be necessary, except questions of adjournment, and the bringing on of elections by the two houses, and amending this Constitution, shall be presented to the Governor; and, before the same shall take effect, be approved by him; or, being disapproved, shall be repassed by both Houses according to the rules and limitations prescribed in the case of a bill.

Sec. 14.—The Governor shall have power to approve or disapprove any item or items of any bill making appropriations embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the Executive veto; and he shall in writing state specifically the item or items he disapproves, setting the same out in haec verba, in his message; but in such case, the enrolled bill shall not be returned with the Governor's objection.

Sec. 15.—In case of the Governor's removal from office, death or resignation, the Lieutenant Governor shall become Governor. If both the Governor and Lieutenant Governor are removed from office, die or resign prior to the next general election, thereafter, for members of the General Assembly, the Governor and Lieutenant shall be elected at such election for the unexpired term. In case of the impeachment of the Governor, his absence from the State, unsoundness of mind or other disability, the power and authority of the office shall devolve, in the order herein named, upon the Lieutenant Governor, President pro tem of the Senate, Speaker of the House of Representatives, Attorney General, State Auditor, Secretary of State, and State Treasurer; if any of these officers be under any of the disabilities here specified, the office of Governor shall be administered in the order named by these officers free from such disability, until the Governor is acquitted, returns to the State, or is restored to his mind, or relieved from other dis-

ability. If the Governor shall be absent from the State over twenty days, the Secretary of State shall notify the Lieutenant Governor, who shall enter upon the duties of Governor; if both the Governor and Lieutenant Governor shall be absent from the State over twenty days the Secretary of State shall notify the President pro tem of the Senate, who shall enter upon the duties of the Governor, and so on, in case of such absence, he shall notify each of the other officers named in their order, who shall discharge the duties of Governor, until the Governor or other officer entitled to administer the office in succession to the Governor returns. If the Governor-elect fails or refuses from any cause to qualify, the Lieutenant Governor-elect shall qualify, and exercise the duties of the Governor's office until the Governor-elect qualifies; and in event both the Governor-elect and Lieutenant Governor-elect, for any cause, fail to qualify, the President pro tem of the Senate, the Speaker of the House of Representatives, the Attorney General, State Auditor, Secretary of State, and State Treasurer shall in like manner, in the order named, administer the Government until the Governor or Lieutenant Governor-elect qualifies.

Sec. 16.—If the Governor or other officer administering the office shall become of unsound mind, it shall be the duty of the Supreme Court of Alabama, upon request in writing, of any two of the officers named in Section 15, not next in succession to the Governor, to ascertain the mental condition of the Governor, or other officer exercising the office, and if he is of unsound mind to so certify upon its minutes a copy of which, duly certified, shall be filed in the office of the Secretary of State; and in that event it shall be the duty of the officer next in succession to perform the duties of the Governor, until the Governor or other officer exercising the office is restored to his mind.

Sec. 17.—The Lieutenant Governor, the President pro tem of the Senate, and the Speaker of the House of Representatives, shall receive during the time they respectively administer the Government, like compensation as that fixed for the Governor; provided, if the General Assembly shall be in session during the time such officer may administer the office of Governor they shall receive no compensation as officers or members of the General Assembly.

Sec. 18.—No person shall at one and the same time hold the office of Governor of this State, and any office, civil or military, either under this State or the United States, or any other State or Government, except as otherwise provided in this Constitution.

Sec. 19.—The Governor shall be Commander-in-Chief of the militia and volunteer forces of this State, except when they shall be called in to the service of the United States, and he may call out the same to execute the laws, suppress insurrection, and repel invasion; but need not command in person unless directed to do so by resolution of the General Assembly, and when acting in the service of the United States he shall appoint his staff and the General Assembly shall fix his rank.

Sec. 20.—The Governor shall not appoint any members of the General Assembly during the term for which he shall have been elected to any office.

Sec. 21.—No person shall be eligible to the office of Secretary of State, State Treasurer, State Auditor, Superintendent of Education, Attorney General or Commissioner of Agriculture and Industries unless he shall have been a citizen of the United States at least seven years, and shall have resided in this State at least five years next preceding his election, and shall be at least 25 years old when elected.

Sec. 22.—There shall be a Great Seal of State which shall be used officially by the Governor, and the Seal now in use shall continue to be used, until another shall have been adopted by the General Assembly. Said Seal shall be called "The Great Seal of the State of Alabama."

Sec. 23.—The Secretary of State shall be the custodian of the Seal of the of the State, and shall authenticate therewith all official acts of the Governor; his approval of laws, resolutions, appointments to office and administrative orders, excepted. He shall keep a register of the official acts of the Governor, and when necessary shall attest them, and lay copies of the same, together with copies of all papers relative thereto, before either House of the General Assembly when required to do so, and shall perform such other duties as may be prescribed by law.

Sec. 24.—All grants and commissions shall be issued in the name and by the authority of the State of Alabama, sealed with the Great Seal and signed by the Governor and countersigned by the Secretary of State.

Sec. 25.—Should the office of Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education or Commissioner of Agriculture and Industries become vacant, for any of the causes, the Governor shall fill such vacancy until the disability is removed or a successor elected and qualified. In case any of said officers shall become of unsound mind, such unsoundness shall be ascertained by the Supreme Court upon the suggestion of the Governor.

Sec. 26.—The Governor, Lieutenant Governor and Attorney General are constituted a Board of Conciliation for the adjustment of differences between employer and employes engaged in mining, manufacturing, transportation or other lawful industries, to which board may be added in each case coming before it, two citizens of this or some other State of the Union, to be appointed by the Governor. The Board may propose arbitration before it of any such dispute, whenever it deems proper; and in its discretion may hear such disputes when requested by either or both parties thereto. In all cases coming before it, the Board shall pass on the merits and recommend in writing what ought to be done to adjust the dispute or difference. Its judgment or award shall be advisory merely, unless both parties agree in writing, in advance, to perform the award, when it may be enforced by appropriate proceedings in the courts under such rules and regulations as may be prescribed by law. The Board shall have power to compel the

production of papers and the attendance of witnesses, in matters germane to the dispute or differences, under such rules and regulations as may be provided by law.

Sec. 27.—The Governor, Auditor and Treasurer or the Governor and either the Auditor or Treasurer, when there are funds in the Treasury, not immediately needed, may loan out the same on call, or for such time and at such rate of interest as they may deem advisable, taking as collateral bonds of the United States or of this State, to the full value of the amount loaned, and the interest agreed to be paid therefor; such loan shall not be made until after one week's public notice, through some paper published at the Capital, and a record of such loans shall be kept in the office of the Auditor, and reported by the Governor to the General Assembly at its next meeting.

Sec. 28.—The State Treasurer, State Auditor, Attorney General and the Commissioner of Agriculture and Industries shall perform such duties as may be prescribed by law. The State Treasurer and State Auditor shall every year at a time the General Assembly may fix, make a full and complete report to the Governor, showing the receipts and disbursements of revenues of every character, and all claims audited and paid out by items, and all taxes and revenues collected and paid into the Treasury and from what sources; and they shall make reports oftener upon any matters pertaining to their office if required by the Governor or General Assembly.

Sec. 29.—The State Auditor, State Treasurer, Attorney General, Secretary of State and Commissioner of Agriculture and Industries shall not receive to their use, any fees, costs, perquisites of office, or other compensation than their salaries, as prescribed by law, and all fees that may be payable for any services performed through such officers, shall be at once paid into the State Treasury.

Sec. 30.—A Sheriff shall be elected in each county by the qualified electors thereof, who shall hold his office for a term of four years, unless sooner removed, and shall be ineligible to such office as his own successor. Whenever any prisoner is taken from the jail or from the custody of the Sheriff or his deputy, and put to death, or suffers grievious bodily harm owing to the neglect, connivance, cowardice or other grave fault of the Sheriff, such Sheriff may be impeached under Section 2 of Article VII of the Constitution, and the Governor, when satisfied after hearing the Sheriff, that he should be impeached, may suspend him from office for such time as he may think proper until the impeachment proceedings are finally disposed of.

During the reading of the Article:

MR. JONES (Montgomery)—I ask unanimous consent to make a motion.

THE PRESIDENT—The gentleman asks unanimous consent—

MR. JONES (Montgomery)—As that Article will be placed upon the Journal and printed in the proceedings, and every member will want to read it, and some are impatient to get away, I move that the reading of the ordinance at length be dispensed with.

Objection was made.

MR. JONES (Montgomery)—I withdraw the motion if there is any objection to it.

THE PRESIDENT—The rules require, before an ordinance can be passed, that it shall have three readings in the Convention. Does the gentleman withdraw his motion?

MR. JONES (Montgomery)—Yes, sir.

Again, during the reading of the Article:

MR. ROGERS (Sumter) — I believe that the rules under which we are acting require these ordinances to be printed, and as we shall have plenty of copies of this Article, and as we cannot possibly give it the attention by listening to the reading of the Article, that we can by reading it ourselves, I ask the unanimous consent of the Convention that the further reading of this ordinance before the Convention be dispensed with. I cannot see the good of having it read, and it seems to be a useless consumption of time.

Objection was made and the reading proceeded.

MR. BROOKS—I desire to move that the Clerk have the number of this report provided by the rules printed; and in view of the vast amount of new matter that this report contains, that it be laid over for consideration until Tuesday so that the members shall have full opportunity of examining the printed copy.

MR. JONES (Montgomery)—Would it not be better to have it laid over generally and then we can find out when it suits best to take it up in view of the business of the various Committees.

MR. BROOKS—I am perfectly willing to accept the gentleman's suggestion except that I do not want it to come up on Monday.

MR. JONES (Montgomery)—I ask a suspension of the rules and that this report, after printing, shall lie on the table. Then we can take it up whenever we please.

MR. MALONE—I move to amend that by adding that it shall not come up until Tuesday.

THE PRESIDENT—If put upon the table it will remain there until taken up on motion. Is the gentleman's motion to lay the report on the table?

MR. JONES—My object in that is so that this report will not come up until such time as is satisfactory to the Convention and when the best time comes for it, we can take it up and consider it.

MR. PETTUS—I rise for a parliamentary inquiry. Under the rules, don't the report lie on the table until at the pleasure of the Convention it is taken from the table?

THE PRESIDENT—That is the rule.

MR. PETTUS—Then the motion is unnecessary as it seeks only to accomplish what is already provided for by the rules.

THE PRESIDENT—Without a suspension of the rules, the report of the Committee and the ordinance reported by the Committee will lie on the table and three hundred copies will be printed. Does the gentleman from Montgomery renew his motion?

MR. JONES (Montgomery)—No, sir.

THE PRESIDENT—The ordinance reported in the minority report will also be printed and lie on the table.

MR. BOONE—I move that only the article reported by the majority and the substitute sections reported by the minority be printed.

THE PRESIDENT—That is what the rules require.

MR. BOONE—Not the lengthy report of the Committee.

THE PRESIDENT—The report is not to be printed without the House so orders.

MR. JONES (Montgomery)—Then I move to include that. It will aid the members very much in looking at the new article. Without it each delegate will have to take the old Constitution and compare it with this section by section.

A vote being taken the motion of the delegate from Montgomery was carried.

MR. VAUGHAN—I desire leave of absence for tomorrow.

MR. HEFLIN (Randolph)—I am requested to ask leave of absence until Monday for Mr. Sentell on account of sickness.

MR. PALMER—I desire a leave of absence for tomorrow and Monday.

MR. RENFRO—I desire leave of absence for tomorrow.

The leaves were granted.

The call of the regular order being exhausted without business being proposed, Mr. Brooks moved to adjourn.

MR. REESE—I move that when the Convention adjourn, it adjourn until 12 o'clock Monday.

Disapproval of the motion being audibly manifested the delegate withdrew the motion, and the Convention adjourned.

FIFTEENTH DAY

MONTGOMERY, ALA.,

Saturday, June 8, 1901.

The Convention was called to order by the President and the proceedings were opened with prayer by the Rev. Mr. Howell as follows:

We recognize Thee, Oh Lord, as our God and Sovereign, entitled to our obedience, to our service and to our love.

Now, before entering upon the duties of this day we come before Thee to offer our morning sacrifice, prayers, praise and thanksgiving. We thank Thee for Thy kind providence that has watched over us during the night. We thank Thee for the strength and health of body and mind we enjoy this day. We pray Thee to direct us this day with Thy Holy Spirit into the ways of righteousness and truth. May we realize more and more the force of the Divine truism that righteousness exalteth a nation and that sin is a reproach to any people. We pray Thy blessing upon the Chief Magistrate of this State, who lies critically ill in one of her cities. O God, we recognize Thee as one who art not only the physician of souls but the physician of bodies. Sanctify the means being used and the agencies employed for his recovery. May he realize as he lies, possibly near the terminus of life, that Thou art his God and that all is well with him. Bless the loved ones of these Thy servants at home. May Thy kind providence preside over them and may all things contribute to their good and to their happiness. Forgive all our sins and prepare us not only for the duties of this day, but for the duties of the coming days. O, may our highest ambitions be to arrive at that which results in the greatest good to the greatest number, that Thy name may be glorified and that peace and prosperity may come to our commonwealth. Hear us and bless us and direct us and favor us for Christ's sake, Amen.

The roll was called and one hundred and four delegates responded.

The report of the Committee on Journal that the journal for the fourteenth day was found correct was read and adopted.

The following leaves of absence were granted:

For Saturday:

Messrs. Reynolds (Chilton), Reese, Cofer, Samford, Howze, Cornwall, Jones (Hale), Fitts, Coleman (Walker), Espy, Long (Butler), Bulger, Vaughan, Carmichael (Coffee), Gilmore.

For Monday—Messrs. Cunningham, Cornwall, Sanders, Sollie.

For Monday and Tuesday—Mr. Tayloe.

MR. JACKSON—I move when this Convention adjourn today, that it adjourn to meet at 12 o'clock Monday.

The motion was seconded and carried.

MR. COLEMAN (Greene)—The Committee on Suffrage and Elections ask to be excused from attending the session today.

By consent the Committee was excused.

MR. FLETCHER—I move that no further leaves of absence be granted. If any more are granted the result will be that we shall not have a quorum.

THE PRESIDENT—It is only done by unanimous consent. The Chair thinks a simple objection will stop it. The next order of business will be the calling of the roll for the introduction of ordinances, memorials and resolutions.

Mr. Almon yielded his turn to Mr. Pettus.

MR. BLACKWELL—I rise to ask a correction in the official report, in regard to the resolution on suffrage (No. 332, fourteenth day's proceedings). In the fourth section, it read, "entitled to vote under the laws of any State wherein he resided,' and it should read "any State or Territory wherein he resided." Further down, in paragraph 5, it reads "all elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. Every ballot shall be numbered in the number in which it shall be received. It should read, "numbered in the order in which it shall be received."

THE PRESIDENT—The stenographer will be instructed to make the correction as requested by the gentleman from Morgan.

Resolution No. 138, by Mr. Pettus:

Whereas, The State debt may be refunded at a much lower rate of interest than the State now pays, when it falls due, and: Whereas, The increased valuation of property in the State may reasonably be expected to bring increased revenue to the State, therefore, be it resolved, that it is the sense of this Convention, that the State tax limit be reduced, and the Committee on Finance

and Taxation is hereby requested to report an ordinance reducing the constitutional tax limit for the State to such rate as to the Committee seems for the best interest of the State.

Referred to Committee on Taxation.

Resolution No. 139, by Mr. Burns:

Resolution—That the additional of expense of printing may be saved by leaving off the explanatory notes and publishing only the ordinances or resolutions reported by Committees, as agreed upon. And that no expense for printing or other purposes be incurred except ordered by a majority of the Convention on a call of the roll.

Referred to Committee on Schedule, Printing and Incidental Expenses.

Ordinance 342, by Mr. Burns:

That fees and costs of constables and deputies in all criminal cases shall be uniform, and the same throughout the State, and shall be paid at the rate of two and 50-100 dollars for each case, whether or not the defendant be convicted, bound over or discharged.

Provided, that in addition to the $2.50 the constable or deputy shall be entitled to ten cents per mile for carrying prisoner before the trial justice, and from the Justice's Court to the County Jail.

Referred to Judiciary Committee.

Ordinance No. 343, by Mr. Case:

To amend Section 49 of the present Constitution, to compel children who are able to support indigent parents.

Be it ordained by the people of Alabama in Convention assembled that Section 49 of the present Constitution be amended at the end of the last line after the word "poor" so as to read as follows to-wit: but parents who are poor, needy, dependent or helpless, without visible means of support, and having children who are able to maintain them, the General Assembly of Alabama shall enact such laws as it may deem necessary, to compel such children to decently care for and sufficiently support such indigent parents.

Referred to Judiciary Committee.

Ordinance 344, by Mr. Glover:

To amend the Constitution of this State by inserting therein —The Legislature shall have the power and authority to revise, regulate and reconstruct the judiciary system of this State.

Be it ordained by the people of Alabama in Convention assembled that the Constitution be amended by inserting the following therein:

That the Legislature shall have power and authority to revise, regulate and reconstruct the judiciary system of this State.

Referred to Judiciary Committee.

Ordinance 345, by Mr. Glover:

To amend the Constitution of this State so as to insert the following therein. To abolish the right of dower and courtesy and give the wife and husband an inheritable interest, in each others estate in lieu thereof.

Be it ordained by the people of Alabama in Convention assembled, that the Constitution of this State be amended by inserting the following: The right of dower, and the statutory and common law right of courtesy be hereby abolished and husband and wife shall have an inheritable interest in each others estate in lieu thereof.

Referred to the Judiciary Committee.

Ordinance 346, by Mr. Greer (Perry):

Relating to legal advertising:

Section 1. Be it ordained by the people of Alabama in convention assembled, that all general laws, local laws and all legal advertisements now authorized or that may hereafter be authorized by law, shall be published as follows, to-wit:

First—All general laws shall be published one time in three daily newspapers, to be selected by the Secretary of State; provided said newspapers shall be published in separate sections of the State and provided further, that the newspapers selected shall have the largest daily circulation in the several sections of the State, said circulation to be ascertained by the Secretary of State. The cost of said advertisements to be paid for by the State.

Second—All local laws shall be published in some newspaper printed and published in the county affected by such local laws, the cost of said publication to be paid for by the county, provided there is a newspaper published in said county, the contract to be awarded in like manner by the Secretary of State.

Third—All legal advertising shall be published in a newspaper in the county requiring such legal advertising, provided a newspaper is published in such county.

Fourth—Be it further ordained, that the General Assembly may fix the prices for these publications, and also to authorize

publications other than is herein provided for in counties in which there is no newspaper published.

Referred to Committee on Schedule, Printing and Incidental Expenses.

MR. JONES (Montgomery)—I do not know whether the motion I am about to make will be in order, but I will submit it to the Chair. The rules now require an ordinance to be read three times, before it can be finally passed, and if I am in order, I move that the ordinance reported by the Committee on the Executive Department be now put upon its second reading.

THE PRESIDENT—The Chair understands that the reading on yesterday would be considered, within the meaning of the rules, the second reading.

MR. JONES (Montgomery)—I cheerfully adopt that but I do not see how that can be, when it has only been read once.

THE PRESIDENT—The original ordinances were read and referred and this was reported as a substitute.

Ordinance No. 347, by Mr. Miller of Marengo:

To prevent any corporation from contracting exclusively for the sale of any books or articles for use in pubilc schools to the State of Alabama or to any counties in this State, or to any cities or town in the State, or to any school district in the State.

Be it ordained by the people of Alabama in Convention assembled, That the State, Counties, cities, towns and school districts of Alabama, are hereby forbidden to make exclusive contracts for the purchase of text books or other articles for use in the public schools from any corporation which seeks to create any exclusive contract for the purchase of such articles.

Referred to Committee on Corporations.

Ordinance No. 348, by Mr. O'Neill of Jefferson:

Be it ordained by the people of Alabama in Convention assembled, That Article XI of Section 1 on Taxation be so amended by striking out this section and substituting the following:

Section 1. All taxes levied on property and other subjects of taxation shall be assessed in exact proportion to the value of such property and subjects of taxation, and there shall be no double taxation. All licenses established for the purpose of revenue only, shall be regulated by the value of the business licensed and municipal corporations shall not collect a license tax in any case where the State does not.

Referred to Committee on Taxation.

Ordinance No. 349, by Mr. J. W. A. Sanford:

An ordinance to establish a great seal for the State of Alabama.

Whereas, the patriotic and heroic conduct displayed by Emma Sansom of Cherokee County, during the war between the States should be held in everlasting remembrance by the people. Therefore, be it ordained by the people of Alabama in Convention assembled that the great seal of this State shall be the figure of a soldier clad in the uniform of a Confederate General fully armed, mounted on horseback with a young woman sitting behind him and with her hand pointing forward over his shoulder. Around the seal shall be inscribed the legend or motto, "I will show you the way."

Deferred to Committee on Executive Department.

Ordinance No. 350, by Mr. Mac A. Smith:

Be it ordained by the people of Alabama, in convention assembled, That Section 1 of Article XIV of the present Constitution of said State be amended so as to read as follows:

Corporations may be formed under general laws, but shall not be created by special act, except upon the prepayment of a license tax by such corporation according to a graduated rate to be fixed by the General Assembly of the State.

Referred to Committee on Corporations.

MR. WEAKLEY—An ordinance was introduced a few days ago and referred to the Committee on Municipal Corporations. It related to establishing municipal courts. The Committee on Municipal Corporations has considered the ordinance and asks that it be referred to the Committee on Judiciary.

The reference was changed as requested.

Resolution No. 140, by Mr. Williams (Elmore):

That no poll tax or other privilege tax be required of any voter in this State.

Be it resolved, That no poll tax or other privilege tax be required of any voter in this State, and that all qualifications for voters be determined and concluded by Board of Precinct Registrars, and such other qualifications as may be fixed by this convention.

Referred to Committee on Suffrage and Elections.

On the regular call, there was no business until the consideration of ordinances, etc., reported by committees was reached, when Resolution No. 25 received its third reading:

Resolved, That the Secretary of this Convention be and he is hereby instructed to preserve five copies of the printed stenographic report of the proceedings of this convention, and when said report is completed to cause the same to be bound and deposited in the office of the Secretary of State.

MR. BOONE—I move the adoption of the resolution.

THE PRESIDENT—The chair will state that the rules requiring three readings do not extend to resolutions, although this resolution seems to have had three readings in some way.

A vote being taken, the resolution was adopted.

MR. GREER (Calhoun)—I move that we do now adjourn.

MR. JONES (Montgomery)—Will the gentleman withdraw that for a moment. I wish to make a motion that will expedite the business of the Convention.

The motion was withdrawn.

MR. JONES (Montgomery)—I move that the ordinance creating and defining the Executive Department be now taken from the table and placed upon the calendar and made a special order of business for Tuesday after the disposition of unfinished business. I make this motion simply to put the Convention in position to go to work if it desires to do so.

MR. BROOKS—I move that it be put on the calendar as a special order to be taken up after the other business is disposed of.

THE PRESIDENT—There is an order of business of this kind, "Consideration of ordinances and resolutions reported from Committees."

MR. JONES — There is no objection, I understand, to making it a special order, but if you set it after the call for ordinances, resolutions, etc., it may not be taken up at all.

A vote being taken the motion was carried.

MR. MALONE—I wish to give notice that after Monday next, objection will be made to all leaves of absence.

MR. BROWNE—For the purpose of moving to amend the resolution passed awhile ago providing that five copies of the official stenographic report be deposited in the office of the Secretary of State, I move a reconsideration of the vote by which that resolution was adopted. The resolution is No. 25.

A vote being taken the motion to reconsider was carried.

MR. BROWNE—I now move to so amend the original resolution as to provide for five additional copies of the stenographic report, to be placed in the Supreme Court Library.

The question being put upon the motion to amend, the amendment was adopted; upon a further vote the original resolution, as amended, was then adopted.

MR. WILSON (Clarke)—I ask leave to introduce a resolution, and to have it referred to the Committee on Rules.

The leave was granted.

Resolution No. 141, by Mr. Wilson of Clarke:

To amend sub-division 6 of Rule 22.

Resolved that sub-division 6 of Rule 22, be amended so as to read as follows:

6. Call of the roll in alphabetical order for the introduction of resolutions, memorials, petitions and ordinances, and their proper reference. But if the roll call is not completed by 10:30 o'clock of any day, the Convention shall at that hour proceed with the next regular order of business.

Referred to Committee on Rules.

MR. GREER (Calhoun)—I now renew my motion to adjourn.

Before putting the motion to adjourn, announcements of the various committee meetings were made, and thereupon the Convention adjourned until 12 o'clock Monday, June 10th, 1901.

CORRECTION.

Fourteenth day's proceedings, Ordinance No. 332, by Mr. Blackwell, in section 4, make same read "* * * entitled to vote under the laws of State or Territory wherein he resided."

In section 5 make same read "Every ballot shall be numbered in the order in which it shall be received."

SIXTEENTH DAY

MONTGOMERY, ALA.,

Monday, June 10, 1901.

The convention met pursuant to adjournment, was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Gay, as follows:

Our Heavenly Father: We thank Thee that Thou art always willing to hear us when we desire Thy wisdom and Thy guidance. We thank Thee that Thou hast been invoked day after day here. We pray Thee that Thou wouldst bless us in this session. Grant, O God, Thy blessing upon him who presides over these deliberations and grant that all that is done will be with an eye single to Thy glory.

We pray Thee that Thou wouldst bless our beloved Governor. Grant to give him that faith which shall look to Him who is the same yesterday, today and forever, to receive the health and strength which he desires and which we desire for him. We pray Thee, our God, that this State may be prosperous, and Thy will be done on earth as it is in Heaven, for Christ's sake. Amen.

The roll was called and disclosed the presence of 103 delegates.

LEAVES OF ABSENCE.

For this day—Messrs. Almon, deGraffenreid, Duke, Studdard, Jones (Hale), Selheimer, Martin, Greer (Perry), Hood, Altman, Carnathan, Opp, Henderson, Coleman (Walker).

For Monday and Tuesday—Messrs. Morrisette and Locklin.

Indefinite leave—Messrs. J. J. King, Wilson (Clarke), on account of sickness in his family.

MR. COLEMAN—The Committee on Suffrage asks unanimous leave to be excused that they may resume work in committee.

The leave was granted.

MR. COLEMAN—I see it stated in the papers that leave has been granted to Miss Frances Griffin to address the Committee on Suffrage on Woman's Suffrage. I desire to say that the Committee on Suffrage has no such information. No application of that kind has been made to the Committee and nothing has transpired to authorize such a statement as far as I know.

MR. OATES—And the Committee has something else to do.

MR. COLEMAN—I am requested to say that the Committee has something else to do.

THE PRESIDENT—The next order of business is the reading of the Report on Journal.

The report was that the Journal for the fifteenth day was found correct, and was adopted.

THE PRESIDENT—The next order of business is the call of the roll of Delegates for the introduction of Ordinances, Resolutions and Memorials.

Ordinance No. 351, by Mr. Davis of Etowah:

Be it ordained by the people of Alabama in Convention assembled, that Article 7, Section X of the Constitution be amended so as to read as follows:

Section 7.—The right of exemptions hereinbefore secured may be waived by an instrument in writing, and when such waiver relates to realty the instrument must be signed by both the husband and the wife, and attested by one witness; provided, that such waiver shall apply only to homesteads having a greater area than forty acres, and then only to the excess of forty acres; and provided further that such waiver shall not apply to household and kitchen furniture to the value of $100, to be selected by the beneficiary of such exemption.

Referred to Committee on Exemptions.

Ordinance No. 352, by Mr. Eyster:

An ordinance for the protection of local building and loan associations from excessive taxation.

Be it ordained by the people of Alabama in Convention assembled, that all building and loan associations in this State lending money on real estate situated in the county of their organization shall be exempt from the payment of all license fees to the State, or to any county or municipal corporation exceeding in the aggregate the sum of one ($1.00) dollar upon each one thousand ($1,000.00) dollars, actually paid in upon its capital stock, and that the shares of such associations shall not be taxable whether in the hands of share holders or held as security by the association for loans.

Referred to Committee on Corporations.

Ordinance No. 353, by Mr. Haley:

Relates to Exemption of Property.

Be it ordained by the people of Alabama in Convention assembled:

That Section 2, Article X of the Constitution be amended as follows: By striking out all words and sentences, after the word Constitution in the ninth line of said section 2, Article X.

Referred to Committee on Exemptions.

Ordinance No. 364, by Mr. Haley:

Relates to County Boundaries.

Be it ordained by the people of Alabama, in Convention assembled:

That Section 2, Article II of the Constitution be amended so as to contain the following: No new County shall be hereafter formed with less than 400 square miles nor smaller population than 7,500.

Referred to Committee on State and County Boundaries.

Ordinance No. 355, by Mr. Harrison:

To Limit the Indebtedness of the Cities, Towns and Villages in this State:

Be it enacted by the people of Alabama in Convention assembled:

That no city, town or village in this State shall hereafter become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed 3 per cent. of the assessed valuation of the real estate and personal property within said city, town or village subject to taxation, as shown by the last preceding assessment for State and County purposes.

Referred to Committee on Municipal Corporations.

Ordinance No. 356, by Mr. Long of Walker:

Relates to Judicial Department.

Be it enacted by the people of Alabama in Convention assembled:

That no Judge of any Circuit, or City, or other Criminal Court of Record shall have power or authority to remit in whole or in part any fine imposed upon conviction of any person below the minimum fine as fixed by law. Nor shall they have power to remit any forfeiture made final upon any bond or bail.

Referred to Judiciary Committee.

Ordinance No. 357, by Mr. O'Neill of Jefferson.

Be it ordained by the people of Alabama in Convention assembled that Article XI, Section 1 be amended as follows:

That no county, city, town or municipal corporation can charge a privilege tax except in cases where State of Alabama charges such tax, and such tax shall not exceed 50 per cent. of the license charged by the State.

Referred to Committee on Municipal Corporations.

MR. OATES—Mr. President, I am afraid that I may be out of order, as names are being called elsewhere, but I desire to ask a change of reference of Ordinance No. 341, by Mr. M. M. Smith which was referred to the Committee on Legislation and I do not think that it belongs to that Committee. It belongs to either the Committee on Education or Taxation.

THE PRESIDENT—To what Committee does the gentleman wish it referred? He is not aware of the contents of the ordinance.

MR. OATES—I have just stated, while I do not think it belongs to the Committee on Legislation, it may be properly referred to either Taxation or Education.

The Ordinance, No. 341, was referred to the Committee on Taxation.

Ordinance No. 358, by Mr. O'Neill of Jefferson:

Be it ordained by the people of Alabama, in Convention assembled:

That Municipalities shall take State and County valuation of personal property as well as real estate.

Referred to Committee on Taxation.

Ordinance No. 359, by Mr. O'Neill of Jefferson:

Be it ordained by the people of Alabama in Convention assembled:

Article V of the Constitution be so amended as to provide for State Board of Equalization to consist of five men to be elected by the people to equalize taxes of the State.

Referred to Committee on Executive Department.

Ordinance No. 360, by Mr. J. W. A. Sanford:

An Ordinance to Prohibit the Ownership of Real Estate by Persons Owing Allegiance to Foreign Governments.

Be it ordained by the people of Alabama in Convention assembled:

That no person who owes allegiance to any foreign power, potentate or government, shall be permitted to purchase, hold, inherit or own any real estate in the State of Alabama.

Referred to Committee on Legislative Department.

Ordinance No. 361, by Mr. Mac. A. Smith.

Be it ordained by the people of Alabama in Convention assembled:

That Section 25, Article VI of the Constitution of said State be amended so as to read as follows, to-wit:

A solicitor for each Judicial Circuit shall be elected by the qualified electors of each circuit, who shall be learned in the law, and who shall, at the time of his election and during his contin-

uance in office, reside in the circuit for which he is chosen, and whose term of office shall be for four years.

The General Assembly, at the first session thereof after the ratification of this Constitution shall provide by law for the election of a solicitor for each Judicial Circuit of the State, whose term of office shall begin on the expiration or the term of the present solicitor in each circuit; Provided, that the General Assembly may when necessary provide for the election or appointment of county solicitors.

Referred to Judiciary Committee.

Ordinance No. 362, by Mr. Watts:

To Amend Section 8 of Article XIV:

Be it ordained that Section 8 of Article XIV be amended by adding "but after the ratification of this Constitution, no corporation shall be formed unless before organization three-fourths of the capital stock shall be subscribed for in good faith and the stock subscribed for be paid up in full before organization.

Referred to Committee on Corporations.

Ordinance No. 363, by Mr. Williams (Marengo):

Relates to Exemptions from Taxation.

Be it ordained that all property up to the value of $1,000 shall be exempt from taxation to the widows of Confederate soldiers.

Referred to the Committee on Taxation.

Resolution No. 142, by Mr. Williams (Marengo):

Resolved that the Convention does sympathize with the Gallery in its bitter disappointment in not enjoying certain speech-making at this day's session.

THE PRESIDENT—The resolution is out of order.

MR. OATES—I was called out and was not here to respond to by name. I desire to offer two ordinances.

Ordinance No. 364, by Mr. Oates:

An Ordinance to Prevent an Increase of the State Debt and to Regulate Temporary Loans.

Be it ordained by the people of Alabama in Convention assembled:

That after the ratification of this Constitution no new debt shall be created against or incurred by this State or its authority, except to repel invasion or suppress insurrection, and then only by concurrence of two-thirds of each house of the Legislature, and

the vote shall be taken by yeas and nays and shall be entered on the Journals; provided that the Governor may be authorized to negotiate temporary loans to meet deficiencies in the Treasury, but never to exceed $200,000, and until the same is paid no new loan shall be negotiated.

Referred to Committee on Taxation.

Ordinance No. 365, by Mr. Oates:

To Provide for Refunding the Bonded Debt of the State, and for Improving the Capitol Building and Grounds.

Whereas, The total bonded debt of the State is $9,357,600, all of which matures July 1st, 1906, except $954,000, which bears 4 per cent. interest, and does not mature till 1920, and whereas, all the aforesaid bonded debt maturing in 1906 bears 5 per cent. interest, except the class C bonds of $966,000, which bear 4 per cent., and

Whereas, it is perfectly practicable and desirable to refund all of these bonds first maturing with State bonds bearing a much lower rate of interest therefore.

Be it ordained by the people of Alabama, in Convention assembled:

Sec. 1.—That the bonded debt of the State shall never, on any account, exceed in the aggregate $9,500,000.

Sec. 2.—That the Legislature may authorize the Governor to issue bonds of the State of Alabama to the aggregate amount of $8,403,600, to mature 50 years after date, and to bear not more than 4 per cent. per annum, and as much less as practicable, the said bonds to be used solely and exclusively in exchange or substitution as the Legislature may direct, for the outstanding bonds of the State denominated as Class A, Class B, and Class C bonds.

Sec. 3.—The Legislature, at its first session after the ratification of this Constitution, shall empower and direct the Governor to issue and sell to the best bidder $42,400 or as much additional as may be necessary of State bonds, to mature 50 years after date, and to bear not more than 3 1-2 per cent. per annum, and substantially of the same kind, terms, dates and denominations as the refunding bonds provided for in the last preceding election.

The proceeds of the sale of the bonds provided for in this section shall be paid into the State Treasury, and the same, or so much thereof as may be necessary shall be used for extension of the two front wings of the Capitol, a distance of from thirty to forty feet each, improvement of the halls, and recovering with substantial material the whole roof of the Capitol, and also to pay for the private property on the South end of the Square upon which

the Capitol building is situated, whatever price may be agreed upon with the owners, or fixed by condemnation, as provided by law.

Referred to Committee on Legislative Department.

THE PRESIDENT—The next order of business is the call of the Standing Committees.

On the call of the Executive Committee Mr. Jones, chairman, offered the following:

Montgomery, Ala., June 10, 1901.

Mr. President.—The Committee on Executive Department ask leave to amend the ordinance entitled "An ordinance to create and define the Executive department," heretofore reported to the convention, as follows:

Amend Section 3 by adding after the words "shall be elected" the following words, "on the first Monday in August, 1902 and thereafter."

Amend Section 5 by adding the words "elected in the year 1902, between the words "Commissioner of Agriculture and Industries" and the word "shall" in such section.

Amend Section 13 by striking out the words "or recess," and by adding after the words " in which case it shall not be a law," the following words, "but when return is prevented by a recess, such bill must be returned to the house in which it originated, within two days after its reassembling, otherwise it shall become a law."

Amend Section 16 by striking out the period at the end thereof and inserting in lieu thereof a semi-colon, and by adding the following words, "when the incumbent denies that the Governor or other person entitled to administer the office, has been restored to his mind, the Supreme Court, at the instance of any officer named in Section 15, shall ascertain the truth concerning the same, and, if the officer has been restored to his mind, shall so certify on its minutes and file a duly certified copy thereof with the Secretary of State, and in that event his office shall be restored to him."

Amend Section 27 by adding after the words "as they may deem advisable" the following words, "to the best bidder."

Thos. G. Jones, Chairman.

MR. JONES—I move that this report be laid on the table to be acted on when the former report of the Committee on the Executive Department is considered by the convention.

MR. MACDONALD—I move to amend that by requiring that this additional report be printed—300 copies—for the information of the convention. I think that ought to be done.

MR. JONES—If the gentleman from Montgomery will allow me, I will explain that this amendment simply relates to what we feared were obscurities in the terms of the officers in the first instance and the other instance was declaring what should be done if a Governor were declared of unsound mind and refused to surrender the office on the ground that he was not of unsound mind.

MR. MACDONALD—I have no doubt that the chairman of the Executive Committee has that exactly right; still I think it necessary for the information of the convention that we should have 300 copies printed.

THE PRESIDENT—In the opinion of the chair, the report of the Executive Committee would not be open to amendment, but the chair understands this is a notice from the committee to the convention that when this report is taken up in regular order, these amendments will be pressed by the committee. The gentleman from Montgomery (Macdonald) moves that the report be printed.

A vote being taken, the motion was carried.

MR. PILLANS—I rise to ask how the members are to receive these printed reports. I have had the misfortune not to see a copy of the report of the Committee on Executive Department, except in the hands of others.

THE PRESIDENT—The chair is informed by the Secretary, that 300 copies of the report were printed and placed on the members' desks.

MR. PILLAN—I do not think one was put on the desk on either side of me.

THE PRESIDENT—The chair will have a copy furnished the gentleman from Mobile and any other delegate who has not received a copy will be furnished one upon application to the Secretary.

The call of the standing committees proceeded, and the Committee on Schedule, Printing, etc, reported favorably resolution No. 120, as follows:

"Resolved, That all resolutions authorizing the payment of any money shall be adopted only by a yea and nay vote."

THE PRESIDENT—The report of the committee and ordinance will lie on the table and be printed.

MR. GREER—I move that we do now adjourn.

MR. SANFORD—I ask the gentleman to withdraw that motion. I understand the business of the convention for today has been completed. I also know that a lady of very great distinction and unusual intellect desires to speak on Woman Suffrage—

MR. REESE—I make the point of order, Mr. President, that a motion to adjourn has been made.

THE PRESIDENT—The gentleman from Dallas makes the point of order that a motion to adjourn has been made, and that it is not debatable—

MR. REESE—I withdraw the point of order.

THE PRESIDENT—and the chair will be compelled to sustain the point of order.

MR. HEFLIN (Chambers) — The gentleman from Dallas withdrew the point of order.

MR. REESE—I withdraw the point.

THE PRESIDENT—The Chair failed to hear the gentleman when he withdrew the point of order.

MR. SANFORD—And that she desires to be heard. It is in regard to an ordinance which was presented by the ordinance which was presented the other day by the distinguished gentleman from Dallas, relative to the power of white women to vote. I hope, therefore, that this Convention will give her a respectful hearing upon that topic, for I doubt not she is better informed on the subject than any gentleman within the hall.

THE PRESIDENT—The gentleman from Montgomery moves that Miss Frances Griffin be invited to address the Convention.

MR. BURNS—I rise to a point of order.

THE PRESIDENT—State the point.

MR. BURNS—The rules have not been suspended.

THE PRESIDENT—The point of order is well taken.

MR. MILLER (Marengo)—I move that the rules be suspended.

A vote being taken, on a division, the rules were suspended by a vote of 71 to 1, Mr. Burns voting in the negative.

A further vote being taken, the motion of the delegate from Montgomery was carried and the Chair appointed Messrs. Sanford, Burns (laughter) and Wilson (Washington), to conduct the lady to the platform, which was done.

THE PRESIDENT—I have the honor and pleasure of introducing to this Convention Miss Griffin, who will now address you.

MISS GRIFFIN—Appreciating the honor afforded me, and desiring not to trespass upon your time, I have chosen to write what I have most desired to say, in order that I may be more concise than is my custom, and in thus doing, I have deviated from my usual methods of speaking offhand. I believe that my manuscript will not consume more than thirty minutes of your time.

I do not stand as the representative of anything less than the Woman Suffrage Association of the State of Alabama and knowing that the question of suffrage is fairly open for discussion before this body, and fearing that probably what you might have denied us as a grace may come to us as a necessity before you are done, I anticipate the awkwardness of that situation by giving you a chance to express yourselves concerning this question which has grown as the years have grown. The history of our race has been the struggle of the few to secure the best conditions for the many, and the conflict has ended in victory for truth through all the centuries. The civilization that illumines us today is the crowning evidence.

Thousands of years of bitter arguments and bloody wars were required to evolve the principle that "Governments derive their just powers from the consent of the governed." This thought is the guaranty of liberty of the American Republic—it is the watchword of every people striving for political freedom. Now comes the declaration that women as well as men belong to the "governed," and upon that belief, I ground my demand to the application of the principle to citizens regardless of sex.

It is not necessary in order to point an argument, that we shall review the history of woman—or man, either, for that matter—but that we take our examination of the reasons for this demand from the conditions which surround women and men, today.

Wise counsellors of State need not to be reminded that never in the history of Christendom have women taken such large part in the affairs of the world, and no modern fact is so full of promise as the womanly forces now at work in the home, the school, the community and among the nations. The relation of women to the government has so changed that it is hard to recognize her as she was a hundred years ago, when the saying that a man's house was his castle, and he owned everything in his castle. He owned his wife's clothes and her wedding ring and her best bonnet. He purchased the clothes for the family, he decided the food to be eaten, he administered what medicine and religion he chose. The home seemed to have no connection with the Government, nor the government with the

home. But the whole progress of this century has been to put the home within the Government and to interfere with its welfare every moment of the day.

Today, women own these castles as well as men; and if a woman wishes to build a house she is taxed for every nail that goes in it, every article that furnishes it; every garment she wears. Government looks after its women and interferes with them exactly as it interferes with men, because the home relations are changed and the home is within the Government. Thus, has not the condition of a woman changed from a ward to an agent of intelligence where she touches the Government all the way along her life, and the Government touches her and should she not have a share in it?

Nobody denies that women are the chief moral agencies of the world today, nor that they walk in the front ranks of the small army that is working to lift the world to better things. But they need more power to effect their purpose. She has found out that if you want your program accepted there is no better way than to have a vote. The thickest skinned legislator is sensitive to the opinions of a voter. (Laughter.)

The old foolishness about a vote lessening that "silent influence" so much talked of, is proven up. Did you ever hear of a man who wanted to be disfranchised in order to increase his influence? I have found the silent influence is a little too silent in the ears of the legislator.

One of the most nearly universal reasons assigned by earnest man, against this law of evolution, the granting of suffrage to women, has been that "politics is too corrupt for women." I think that is one of your stock arguments. Politics is what men alone have made it. Government may be divided into four departments: State, society, church, home. The State is the only one from which women have been excluded. The other three have been maintained at the highest standard, but the first has become so corrupt that it is not fit for women to have any part in it. Of course it is but it is because women have been kept out. If men alone had tried to manage all the four departments, they would by this time, all have been demoralized. The combined influence of both men and women are necessary to bring all to their highest state. It is said that the real religious creed of the people—the unmistakable evidence of what they actually believe, is their politics. But women have a trust in religion and no politics, while men have a trust in politics, and judging by the State of public affairs no religion to speak of. If you want to purify politics consolidate the truest in religion with the truest in politics.

Much of the objection made against suffrage for women arises from misunderstanding; much too, from a dread of the sweeping changes which it is supposed to imply. Then there is the feeling,

that voting in order to be worth much must be the expression of an intelligent opinion and that many men and most women are incapable of giving such expression.

The man without a vote is a subject, not a citizen; the woman without a vote in an inferior not an equal.

Do women know enough about politics to vote intelligently? (Laughter.)

I see you don't need the answer but I will give it just because I have it here.

The ratio of general intelligence among women is as high as among men, while statistics show the percentage of illiteracy to be less. When they have an object for studying political economy they will do it, and will furnish as many surprises as they have in proving themselves capable of the highest education.

Surely they are now as capable as the mass of foreign speaking naturalized citizens, who continually increase the hordes of voters. On this point we have the testimony of no less a person than Professor Harris, National Commissioner of Education at Washington. He says, "I find on making actual calculation, that the women in secondary and higher education added together, number 287,162, while the men number 235,296; that is, about 55 per cent women to 45 per cent men, for the entire education higher than the primary schools." Our colleges have doubled in numbers within ten years, and the number of women who are getting ready for college is astonishing. Add to this the temperate lives as a rule which must be in woman's favor.

They neither steep themselves in tobacco nor besot themselves with liquor, so that whatever brains they have are kept intact.

Another statement is often made, that "Behind the ballot is the bayonet," and that those who can not help to enforce the laws shall not help choose the lawmakers. If this were really so the women could not complain of being ruled out along with other non-combatants. But it is not so. The United States military statistics taken at the time of our civil war, showed that a large majority of the doctors, lawyers, ministers and educators examined for military duty were found to be physically disqualified.

You know what that means. They did not go to the war; in other words, while on the other hand only a small fraction of the unskilled laborers were found disqualified. Since professional men, as a class, can not fight, while unskilled laborers can, does it follow that suffrage should be taken away from professional men, and be limited to unskilled laborers? The old, the infirm, the halt, the lame and the blind are freely admitted to vote, so find some other reason for excluding women than the fact that they do not fight. In all ordinary cases the enforcement of the civil law

is done by the police and women contribute to it exactly the same way that the majority of men do; they help to pay for it. No man is compelled to serve on the police, but out of those who volunteered a sufficient number are paid with money that is levied alike on men and women.

Another fine gallant speech is that "Men should not place this burden on women."

Far from increase the burden of women, it will lessen it. The immense work in which women are engaged, in charities and reforms in the constant repairing of the damages of society, would be infinitely less, if they had some power to prevent the evil. They are shut out from all influence over causes, and only permitted to deal with their bearing all the results of pauperism and crime; but they are forbidden all part in making and administering of laws and shaping conditions that would lessen the number of paupers and criminals. Even in their own household they must suffer from the results, the effects of intemperance, disease and unjust laws, many of which they might prevent if they were not kept in a state of utter helplessness.

Disfranchisement is no kindness to women; it is cruelly unjust and makes their burdens heavier.

The greatest of all questions yet remains unanswered, nor do I hope to be able to do more than glide along its borders in the time to which I restrict myself.

Why do women want to vote?

If things really were what the benevolent and kindly hearted among us wish they were, there would be no need for question or answer. The mother sex of the race would have, from these well wishers, the most beautiful environments in which to nurture and bring up the future citizens of a glorious commonwealth. Riches and culture and genial loveliness would be attendant upon this half of humanity, so often called goddesses and angels But, alas! how far otherwise it is, my heart bleeds to express, for Paradise and Elysian Fields are out of the calculation.

True, the woman can say what Milton put in the mouth of Eve, in his supposed Paradise, "Thy law is mine," but not in the sense of having made it or approved it when made.

If there were no other reason why she should want to vote, there would be the one to avoid being classed with traitors, with idiots, with criminals and with children.

If there were no other there would be the demand for justice and full equality before the law; the symbol of self government which assumes her self protection. But when we invite you to look abroad upon the great army of wage-workers today and see the women, the mothers of families, who sometimes have the door

locked at home on a group of small children to keep them safe until she return with food, and know that it is the struggle of the survival of the fittest and that the weakest are still further handicapped by the lack of any voice to regulate the laws that crush her; that it is really not a question of sex but of the necessity of affording assistance to a helpless and needy class of human beings, and if you believe as we do that the ballot will help this a little,—you will not think the demand so unnecessary. The demand for equal wages for equal work has slowly obtained consideration and yet it is far from settled. The places affording living salaries have always been given to men as the breadwinners of the civilized world, though the man be unmarried and without dependents, while a woman, though she be supporting children and sometimes an invalid or good-for-nothing husband, is considered an interloper pushing herself into some man's place, where she generally receives half his wages. You might dissent from this in plea for better things lately, but I can show a point in order, happening less than a month ago, where a change was made in the school, the young woman teacher resigning and the place was filled by a young lad, scarcely more than 21, with only the high school certificate, but his salary was immediately raised to teach precisely the same grade and number of pupils.

I remember the day when a woman's suffrage advocate, a lady doctor or a female lawyer were never mentioned in polite society. If a woman made her living it must be as a milliner, dressmaker or seamstress, and make no invasion of the so-called masculine territory. When men receive $12.50 a week as clerks in stores, the female clerks get $5.

This injustice may arise from the belief that woman's needs are less. Men have seen how moderate are all the demands of women of their acquaintance,—I mean good women,—you understand, not the naughty, fast damsels, adventuresses and the like, who never ask for the ballot, and men, knowing that very little money would supply their needs, have made corresponding financial arrangements. This is true in the homes which men provide; but when she provides her own home, she enjoys soft places with fat salaries, public positions with little to do and much to get, such as weather-bureau places, clerk and secretaryships in Government, State and municipal offices, and the successful professions. For all these things women have proved their capacity and for higher things they will prove equally as worthy.

I do not seek to portray incidents of sorrow, though they are as multitudinous as leaves in Valambrosa concerning the struggles of the female wage worker, whose condition is to be bettered by the ballot in her hand; but I'll give a cold blooded statement of Carrol D. Wright, who says: "Industrial and political equality will be co-ordinate in their result. Political in-

fluence will bring industrial emancipation." Woman asks the ballot for the same reason that men have asked for it. She asks it for self-protection. Why else have men been working for the ballot? The laboring men have fought for it until they have got it. There is a very concrete illustration of the protective value of the ballot in the fact that in New York State it took the farmers three months to get a bill through to protect their milk cans, and it took the un-enfranchised women of New York ten years to get a bill through to protect girls.

She does not ask from the law any special protection; she only asks for the means to protect herself.

As we progress, there come up the minor suggestions that few women desire to vote; that they would not vote if they had the right; that they would vote as their husbands do, etc.

I doubt not there are women who do not want to vote. There were women who did not want higher education. If we had waited until every woman had been in favor of opening up colleges for women, how long would it have been before the doors of the colleges would have been opened? There are women who are not looking for the best in any condition of life. There is an illustration by Pandita Ranabia, the East Indian reformer. He said that when it was first suggested that the East Indian girls be educated as well as the men, that a mother said if it was advocated in her house she would throw herself out of the window.

Of course many darkeys struggled for their freedom, but many sat here still as mice until Wilson's raid and Smith's invasion, when they came in and told them in trumpet tones that they were free, and it took some time for them to understand it, because they had to pick themselves up with their master's goods and get out of town. But rights are not measured by the number who want them.

So long as there is one woman who wants the right to vote, she is, according to the spirit of the Constitution and the Declaration of Independence, entitled to that right. The petition presented to the last Parliament signed by 257,000 English women, although English women are allowed to vote for every officer except members of Parliament.

If that gallery were not so packed today, you might still say women did not want to vote. That they would not vote if they had the right, is contradicted in the States where full suffrage is enjoyed. Secretary of the Navy J. D. Long is quoted as saying that suppose it should be so; it often happens in an election that more than half the men refuse to vote. But if one man or woman wants to exercise the right to vote, what earthly reason is there for denying it, because other men or women do not wish to exercise it?

I will skip a little.

That women will vote with their husbands will not always happen. You know that yourselves. (Applause). I have by experience proven that it will not. I went to Wetumpka once, to help in the suppression of the saloons, and petitions and counter-petitions were the order of the day. Men and women signed them, but the names of many men were on contrary petitions from those on which the names of the wives were found. Whenever the interests of the home are to be protected, the unworthy husband will find himself left.

Every step of progress has been beclouded by direful prophesies. When it was proposed to educate her properly, beyond vocal and instrumental music and the cultivation of good manners, horrible warnings were sent out that the home would be destroyed. It was clear that if all women were educated, all women would become blue stockings and write books, neglect children and become unworthy creatures. But the schools at last were opened to them, women were educated and public opinion simmered down after the discovery that the highest educated woman makes the best housekeeper, wife and mother. When the demand came for property rights for woman, in order that they might not live paupers dependent on the bounty of their husbands. (Laughter).

Every one of those points you know are good—then the cry went up that women would desert their homes, yet it was found that there were thousands of women for whom there could be no homes unless they worked in the outside world. But it was said the moral life of woman would be degraded by public contact. But it is shown that wherever women have been allowed to earn a livelihood, in an honorable and respectable way, they have raised the standard of morality rather than lowered it.

The homes have not been broken up; for humans are and always will be the same and the great agency of God, known as human love, will continue to bind the home and family which are founded in justice and educated upon right principles. The claim is made that we are building a barrier between men and women and that we are antagonistic to men because men are men, and we are women. This is not true. There never was a time when men and women were such good friends as now. We have now co-education in our schools; and boys and girls work side by side and study and recite together.

There is nothing in liberty that can harm either man or woman; there is nothing in justice that can work evil to society.

We do not claim that the millenium will come when we are enfranchised, but we do claim that the millenium will never come until justice is done to all mankind.

We do not ask the ballot because we do not believe in men, or because we think men unjust or unfair; we do not ask to speak for ourselves, because we believe men unwilling to speak for us; but because men by their very nature never can speak for women. It would be as impossible for all men to understand the needs of women and to care for their interests as it would be for all women to understand the needs of men and care for the interests of them.

So long as laws affect both men and women, men and women together should make those laws. (Now why don't you applaud that?)

Women need the ballot—not because men are sinners—although you know they are—but because they are by nature different from women— too different to be able to represent them and women must either go unrepresented or represent themselves. I think if we had had a constituency of women last winter when we fought the child labor bill, if we were some one's constituency and had had votes when the preachers stood by us and every man of right and everybody that appreciated gentleness and benevolence that stood by us before that committee, that committee would have been afraid to have reported against us. You know you are afraid now of what you are doing and that committee would have been more afraid of what it did. But that Child Labor Bill is not downed, neither is the woman's suffrage question closed. I had not discussed the darkey question because the darkeys and we stood by each other a long time. You know there was a time when the criminals, the insane people, traitors, idiots, negroes and women were not allowed to vote, but I understand that my gardener is going to be disfranchised. He has been the only thing that represented us at the polls. I live in a household of women, of educated women. My sisters are widows and I am an old maid. There is not a man on the face of the earth interested particularly in how the affairs of our household go. We have no more voice in that neighborhood than if we were a party of Americans set down in Russia. There is a negro gardener who works our field, who is our hostler and Major Domo. He was a little over twenty-one years old when he came to us. He said he had been in school ten years and he was at the first pages of the second reader, but when the voting time came he went over to the village, and did the voting for that family.

And now, as you are taking that one prop from under us, we ask you to at least give us his leavings (prolonged applause).

MR. GREER (Calhoun)—I move we adjourn.

MR. JACKSON—Will the gentleman withdraw his motion? As the gentleman has withdrawn the motion—

MR. GREER (Calhoun)—No, sir, I have not. I rise to a point of order; the motion is not debatable.

MR. REESE—I rise to a point of order. The gentleman from Calhoun is not in his seat, and his motion is not in order.

The point of order was sustained.

MR. GREER (Calhoun)—I make the point of order that we adjourn at 1 o'clock, and we are now adjourned anyhow.

THE PRESIDENT—The rules were suspended by the Convention.

MR. JACKSON—I move that a vote of thanks be tendered to the distinguished lady who has delivered this magnificent address, which has been so highly appreciated by this Convention.

The motion was carried.

After making the announcement of committee meetings for the evening, the Convention on motion of Mr. Williams (Marengo) adjourned.

SEVENTEENTH DAY

MONTGOMERY, ALA.,

Tuesday, June 11, 1901.

The convention met pursuant to adjournment, was called to order by the President and the proceedings were opened with prayer by the Rev. Mr. Stickney, as follows:

O Thou God and Father of us all, we would acknowledge Thee in all things, we would recognize Thee in our civil and our political life as well as in our commercial, industrial, domestic and religious life. We beseech Thee to let Thy special favor be upon Thy servants who are here for the purpose of making a new constitution for the people of this State. Guide them by Thy wisdom. Let them go about their important work as in the fear of Thy great and blessed name and make them all feel that they are amenable not only to the people, but to Thee, O God. Take our hands in thine and lead us throughout life, making us and keeping us conscious of the fact that in all we think and feel and say and do, Thou God seest us. Prepare us for life and we shall be prepared for death, and we shall rise up out of the grave at last to be with Thee in Heaven forever. We ask it in the name of Jesus Christ, Thy Son and our Savior, Amen.

The roll was called and 134 delegates responded.

LEAVES OF ABSENCE.

For this Day—Messrs. Maxwell, Cornwall, Almon.

For one-half day—Mr. Glover.

Report of the Committee on Journal being read, it stated that the journal for the 16th day of the convention had been examined and found correct. On motion the report of the Committee was adopted.

THE PRESIDENT—The next order of business is the roll call of delegates in alphabetical order, for the introduction of resolutions, memorials, etc.

MR. WHITE—There is a very important matter before the convention this morning, which is the report of the Committee on the Executive Department, with an article to be considered. We have had a great many roll calls for resolutions, etc., and I move that the rules be now suspended and we dispense with the roll call this morning, or the order of business, so as to reach that very important business before us.

MR. BROOKS—I would ask the gentleman to withdraw the motion a moment, so that I may offer an ordinance, which I would like to have referred.

THE PRESIDENT—Does the gentleman withdraw?

MR. WHITE—Yes.

Ordinance No. 336 by Mr. Brooks:

An ordinance to define a trust and to prohibit the same in this State.

Be it ordained that Article IV of the Constitution be amended so that it shall contain the following section:

It shall be the duty of the General Assembly to pass such laws as may be necessary to enforce the provisions of this section against the operation of trusts in this State as the same are hereby defined. A trust is a combination of capital, skill or acts by two or more persons, firms, partnerships, corporations, or associations of persons, or any two or more of them for either, any or all of the following puposes:

First—To create or carry out restrictions in trade and commerce.

Second—To limit or reduce the production or increase or reduce the price of merchandise of any commodity.

Third—To prevent competition in manufacturing, making, transportation, sale or purchase of merchandise, product or any commodity.

Fourth—To fix at any standard or figure, whereby its price to the public or consumer shall be in any manner controlled or established, any article or commodity of merchandise, produce or commerce, intended for sale, barter, use, or consumption in this State.

Fifth—To make or enter into or execute or carry out any contracts, obligations or agreements of any kind or description, by which they shall bind or have bound themselves not to sell, dispose of or transport any article or any commodity or any article of trade, use, merchandise, commerce or consumption below a common standard figure or fixed value, or by which they shall agree in any manner to keep the price of such article, commodity, or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article, commodity or transportation between them, or between themselves and others, so as to directly or indirectly preclude a free and unrestricted competition among themselves, or any purchasers or consumers in the state or transportation of any such article or commodity, or by which they shall agree to pool, to combine or directly or indirectly unite any interest that they may have connected with the sale or transportation of any such article or commodity that its price might in any manner be affected. Every such trust as is defined herein is declared to be unlawful, against public policy and void.

Referred to Committee on Judiciary.

MR. JONES (Hale)—I have an ordinance that I want to get before the Judiciary Committee, and I ask that it be read.

THE PRESIDENT—Does the gentleman withdraw his motion?

MR. WHITE—Yes, sir; for any resolutions that are desired to be offered. It is to save time in going over the call that I made the motion.

Ordinance No. 367, by Mr. Jones of Hale:

Be it ordained by the people of Alabama, in Convention assembled:

That Section 26 of Article VI. be amended so as to read as:

There may be elected by the qualified electors of each precinct of the counties, not exceeding two Justices of the Peace and one Constable. Such Justice may have jurisdiction in all civil cases wherein the amount in controversy does not exceed $100, except in cases of libel, slander, assault and battery and ejectment; but the jurisdiction of such Justice of the Peace shall not extend beyond the limits of the precinct for which he was elected, provided, that the office of Notary Public with powers and jurisdic-

tion of Justice of the Peace shall not exist after the ratification of this Constitution; provided, however, that Notaries Public may be appointed by the Governor.

The term of office of such Justice of the Peace and Notaries Public shall be prescribed by law.

Referred to Committee on Judiciary.

MR. BURNS—Will the gentleman withdraw a moment? I want to ask permission of the Convention to be allowed to offer an ordinance or amendment at some leisure moment.

MR. WHITE—I understand the gentleman is not ready to offer it now, and it will be a question of privilege when he does offer it, so I renew my motion.

The President stated the question to be upon the motion to suspend the rules and to take up the special order set for this morning. A vote being taken a division was called for.

MR. REESE—I voted to suspend the rules and I desire to change my vote, and now vote against it.

By a vote of 75 ayes and 22 noes the rules were suspended.

The Chair stated the question was upon the motion of the gentleman from Jefferson to dispense with the regular order of business down to Unfinished Business.

The motion was carried.

MR. HARRISON—I move that the Convention resolve itself into a Committee of the Whole, or proceed as a Committee of the Whole, to consider the ordinance reported by the Committee on the Executive Department, in which the five-minute rule shall apply, as per amendment.

MR. JONES (Montgomery)—I dislike to oppose anything coming from the gentleman from Lee, but it seems to me that we could get along better with this matter by, at the proper time, taking this ordinance up section by section, and passing upon it, and if we find at any time that there has been in the opinion of the members too much debate, why then a resolution can be offered cutting it off. Now I think it would be extremely unfortunate in the discussion of some of these measures to limit it to five minutes, and I therefore move the indefinite postponement of the resolution offered by the gentleman from Lee.

MR. deGRAFFENREID—I rise to a point of order. The motion of the gentleman from Lee, it seems to me, is out of order, and the motion, therefore, of the gentleman from Montgomery is also out of order. The rules which have been adopted by this Convention provide that a minority report shall be considered as

an amendment; that it shall be read a second time and it shall go upon the calendar. The rules also further provide that when any ordinance comes up for consideration before the Convention that it shall be considered each section separately, one by one, and each member shall be permitted 30 minutes. The gentleman limits them now by his motion to 5 minutes. In order to make that motion he would have to move for a suspension of the rules which have been adopted by this House. I therefore think, Mr. President, that his motion is out of order.

THE PRESIDENT—In the rules that have been adopted there is no provision made for a motion to go into the Committee of the Whole, but the Chair would rule that under general parliamentary law it would be in order in the absence of some rule prohibiting such motion, for any Delegate to move to go into Committee of the Whole. That part of the motion which proposes to limit the debate, the Chair would be of the opinion is out of order, but if the Convention went into Committee of the Whole probably some motion of that kind might be entertained. The question under the rule—

MR. OATES—If you will allow me, I think myself that the Delegate from Lee is out of order and makes his motion prematurely, until the Convention is fully in possession of the measure.

THE PRESIDENT—The Chair was about to state that the question under the rules at this time, would be whether or not the ordinance reported by the Committee on the Executive Department shall be ordered to a third reading. That is the question now before the Convention under the rules. The regular order of business has been dispensed with down to the point of this Committee is the special order for this morning. The question before the Convention is whether this ordinance shall be ordered to a third reading, and the gentleman from Lee moves that the Convention go into the Committee of the Whole to consider the ordinance, and the gentleman from Montgomery moves an indefinite postponement of that motion.

MR. HARRISON—I am not wedded to my motion. I made it simply because I believed that it was the most expeditious way to act. It may be premature and the Convention may prefer to have the matter read, and I am perfectly willing that a test should be made, but I think parliamentary rules and the best writers on that subject as I understand it, lay that down as the most expeditious method of considering such questions. If the gentleman desires to make an explanation, in deference to the Chairman of the Committee, perhaps my motion is premature, and I therefore withdraw it, at least for the present, with the consent of the Convention.

MR. FITTS—I move that the ordinance be ordered to a third reading.

The motion was seconded.

MR. BROOKS—I rise merely to make an inquiry, if ordering the ordinance to a third reading would prevent the offering of amendments?

THE PRESIDENT—You could not offer amendments if it is ordered to a third reading.

MR. BROOKS—It cuts off amendments?

THE PRESIDENT—Yes, sir.

MR. FITTS—Then I withdraw that motion for the present.

THE PRESIDENT—A motion may be made to order the ordinance to a third reading as a basis for opening the discussion.

MR. JONES (Montgomery)—Mr. President, if I am in order, as the Chairman of the Committee, I would state at the time my friend from Tuscaloosa made his motion, I was about to make the same motion with the additional explanation that after I had stated the reasons which actuated the Committee, and briefly outlined them, for the information of the members, I would then withdraw it and move that it be then taken up section by section; but, in order to be strictly in order, and I like to be in order when we have so many parliamentarians with so much experience,—I move that the ordinance reported by the Committee on Executive Department, to create and define the Executive Department be now ordered to a third reading.

MR. HEFLIN (Chambers)—I rise to inquire—

THE PRESIDENT—Will the gentleman permit me to state the motion. The gentleman from Montgomery moves that the ordinance as reported by the Committee on Executive Department.

MR. HEFLIN (Chambers) — I think, Mr. President, that any Delegate has a right to request that the report or ordinance be read. Am I correct in that, and if so, I request that it be read, and then it will be in order to be discussed by the Convention without moving to have it read a third time.

THE PRESIDENT—The Chair would suggest to the gentleman from Chambers that the report is quite lengthy and the Chairman has already announced to the Convention that it would be taken up section by section for consideration. Does the gentleman now desire that it shall be twice read, first in full and then read section by section.

MR. HEFLIN (Chambers)—No, sir, That will not cut off amendments.

THE PRESIDENT—The Chairman of the Committee has announced to the Convention that he makes his motion to order this ordinance to a third reading as a basis for some general remarks which he proposes to submit to the Convention, and that he will thereupon immediately withdraw his motion and move that the ordinance be taken up section by section.

MR. OATES—I understand the motion of the Delegate from Chambers to be merely to have the report of the Committee read and not the Article.

THE PRESIDENT—The Chair understood that it related to the ordinance. The report has been printed with the ordinance.

MR. MALONE—I rise to a point of inquiry. I am not familiar with the rules and there is one section of that Article which was reported to another Committee, and that Committee has not made a report. Therefore it is acted upon as if it had adversed the ordinance. Now the inquiry I want to make is whether it will take 78 votes to pass that section or not?

THE PRESIDENT—The Chair would rule that it would not.

MR. MALONE—Notwithstanding it has been adversed by another Committee?

THE PRESIDENT—If the gentlemen composing that Committee wish to impress their views on this Convention it can be offered in the form of an amendment, when that section is reached.

MR. BROOKS—I would like to ask the Chair if I am correct in understanding that the motion made by the gentleman from Jefferson, Mr. White, was in the first instance to suspend the rules, in order that this ordinance might be taken up out of its regular order, as a special order for today, and he thereupon moved that the Convention proceed to consider the ordinance. Now, then, sir, the Convention has acted upon that and we proceed to the consideration of the ordinance. I now move that we consider it section by section, and under that I presume that every Delegate on this floor has a right to offer amendments. I cannot conceive how we can pass an ordinance to a third reading and prescribe the right of any gentleman to offer an amendment. I desire to call the attention of the Chair to Rule No. 47.

MR. JONES (Montgomery)—Will my friend from Mobile permit me to interrupt him one moment ?

MR. BROOKS—Yes, sir.

MR. JONES (Montgomery)—As the Chairman of the Committee, I desire briefly to present the views of the Committee on the general amendments to the Constitution. If I had attempted

that, after the Article was taken up section by section, some young man, learned in parliamentary law, or who had served in Congress, would have made the point of order that the Chairman was not speaking to the question before the House. Therefore, I stated in order to escape these darts of parliamentary law, that the Chairman of the Committee would move to order the bill to a third reading, and when he had made his remarks he would then withdraw the motion, and move to pass upon the ordinance section by section. It is certainly not the desire or the wish of the Committee in any way to interfere with amendments or the freedom of debate.

MR. BROOKS—I understand that Mr. President, but I wish to read this Rule 47.

Rule 47.—When any ordinance is introduced it shall be read at length and be referred by the President without a vote being taken, unless otherwise ordered by a two-thirds vote of the Convention, to the appropriate committee. No ordinance shall be reported back from any committee until after the lapse of one entire legislative day. When any committee shall have reported to this Convention any article or section of the proposed Constitution, said article or section shall again be read at length and 300 copies thereof printed for the use of Delegates; and such article or section shall lie on the table at least one day and until in regular order it shall be taken up for consideration by the Convention.

Now, this Ordinance has laid over under that rule for one regular day, and it is now here for consideration, in any manner that the Convention may see fit to adopt, by sections for instance, or otherwise; but I do not see how you can preclude members of the convention at any stage from introducing amendments. As the gentleman from Montgomery is perfectly willing, he says, to take this up section by section, I will withdraw my motion for the present in order that he can make his general remarks.

THE PRESIDENT—The gentleman from Montgomery has the floor, as the Chairman of the Committee on Executive Department, and he made the motion that this Convention order this Ordinance to a third reading, and has announced to the Convention that, upon the conclusion of his remarks, he would withdraw that motion and move that the ordinance be taken up section by section, when it will be open for amendment. The gentleman from Montgomery has the floor.

MR. JONES (Montgomery)—Mr. President, the Committee on Executive Department have maturely considered not only the numerous ordinances which have been referred to the Committee, but have heard, in some instances, volunteers; and as the result of their labors have presented a complete article on the executive Department.

The first change proposed by the Committee is the creation of the office of Lieutenant Governor. I shall not enlarge upon the reasons which make the creation of such an officer desirable. There is a Lieutenant Governor in nearly all of the older States. In event of any calamity requiring the intervention of an officer other than the Governor to administer the powers of the office, the new officer would certainly have more moral influence and the people would be better satisfied, if he is one whom the people, in contra-distinction to any small body of men, have selected to discharge those important duties.

MR. COBB—Cannot the gentleman take a better position, turn around and let us hear, speak louder.

MR. JONES—I will take louder, but I suspect that the fault is as much in the gentleman's ears as in my voice.

MR. PRESIDENT—The gentleman from Montgomery will proceed with his remarks.

MR. JONES—I submit it would be entirely out of order for a member who is addressing this convention, to turn his back upon the Chair in order that at some time in the debate his back will not be to some member who is seated behind him.

The next change reported by the Committee is a change in the name of the office of the Commissioner of Agriculture. That, as we all know, is a statutory office. It is now made a constitutional office, and in recognition of the fact that Alabama is no longer merely an agricultural State, and that the legislature may hereafter devolve duties upon the Commissioner concerning industry and labor, it was thought proper to take a name more suited to the duties which might hereafter be imposed upon that office.

The next change of importance is the lengthening of the terms of the executive officers from two to four years. I shall not make any argument, at this time at least, in favor of that change.

The next change is, that these officers shall be ineligible to succeed themselves. The reasons for and against such a change will readily occur to members, and I will not now take up their time in dwelling upon them.

The next important change is a provision, in substance, requiring the Governor to pledge himself to the people, and declaring that he does pledge himself to the people by the acceptance of the office of Governor, not to accept an appointment or election to the Senate of the United States during the term for which he shall have been elected, and within one year thereafter. At this this, the Committee rests the justification for that change upon the public history of the State, and the recent experience of the people.

There is one other change connected with the office, and that is that a specific sum is named in the Constitution itself for the salary of the Governor. There were two reasons why the Committee thought it wise to make this specific provision in the Constitution, instead of leaving it to the action of the General Assembly. The article contains the usual provision that the salary of the Governor shall not be increased nor diminished during his term. We all know that the Legislature meets about the 14th day of November or thereabouts, and the Governor is inaugurated on the 1st day of December. That leaves only sixteen days in which to act upon a matter of that importance; and if there is the slightest opposition to it, although there may be an overwhelming majority of both houses in favor of it, it is practically impossible to increase the Governors salary before his term begins, and therefore practically it is prevented under the Constitution.

There was another reason. The reported article in a large measure disfranchises the Governor from other public employment of any sort, for a period of five years commencing with the date of his inauguration. That may be, and perhaps is, wise; but when we put such limitations upon men, the State of Alabama should certainly provide such compensation for the office that many of the best men in the State shall not be excluded from aspiring to the office. It is the people's office. He is our Governor. No matter what the people may think of the incumbent, I am satisfied that go where you will among the masses of the people, there will never be any objection to providing for fitting remuneration for the man, who more than anyone other typifies their dignity, their power and their majesty. These were the reasons, in short, Mr. President, that induced the Committee to make that recommendation.

There are some other minor changes in the Constitution to which I shall refer very briefly. Under the present Constitution, which copies the Constitution of the United States and many other States, the province of the Speaker of the House of Representatives when he counts the vote in joint convention, is a matter of some doubt. We all remember the extravagant claims that were made on either side as to the power to declare the result in the unfortunate contest that grew up in the Hayes and Tilden Presidential election. So it is provided, as we think it was manifestly the intention of the framers of the Constitution, that the Speaker's duty in counting and declaring the result should be ministerial purely and subject to the control of the joint convention.

There are other provisions relating to the veto power. They provide, in substance, that when the General Assembly passes a bill, and the Governor returns it, if the two houses see fit they may concur in his desires, amend the bill and send it back. At the same time, the provisions are so guarded as in no way to cur-

tail the power of the two houses, if they deem it proper not even to consider the Governor's recommendation, but to proceed to consider and determine whether they will pass the bill over the veto.

There is another section which the Committee considered with great care, and that is the ascertainment of disability, which under the Constitution causes a succession in the power of the office of Governor. Governors, unfortunately, are subject to all the ills that flesh it heir to. We might have the case of an executive of unsound mind, declaring that he was of sound mind, exercising the powers of this great office, and no constitutional machinery or legal machinery provided, by which he could be legally declared incompetent and put out of office. So tremendous are the consequences in a change of executive power in all governments, that legislators and statesmen have hesitated to frame the details by which disability shall be ascertained and enforced in all cases; but it is the common practice in some countries, where the king or monarch becomes insane, for the Privy Council sometimes calling in the heir, to consult about it, and finally referred it to the government like parliament which is omnipotent, and thereupon parliament declares a regency. The Committee can conceive of no safer body, no more august body, no body less liable to temptation to use the power for political gain or any other improper motive, than the Supreme Court of Alabama. The further safeguard was provided, in case of the unsoundness of mind of the Governor, that the Supreme Court should not take cognizance of it, unless that question was brought before that body by some officer not next in the succession. We have provided in this article not only for the case of the death of the Lieutenant Governor. President of the Senate and Speaker of the House, but we have added to the offices who shall suceed to the Governorship, the Attorney General, Secretary of State, State Treasurer and State Auditor.

Another important change recommended by the Committee is a Board of Pardons. The Committee thought it wise to restrict the Governor only in the matter of felonies. The ordinance creates a Board, which meets on the call of the Governor, hears petitions in public, and advises him in writing. There the Committee thought that the power of the Board should end, and that the final responsibility, no matter what the advice of the Committee, should rest upon the Chief Magistrate himself. Under the plan proposed, the Executive will be largely relieved of the distressing importunities and personal solicitations which he must otherwise undergo, and he will have the advice and assistance of sworn officers of the law, chosen by the people. There is not one time in a thousand when the governor, in a grave case, would exercise the power of pardon or commutation, when a body of State officers called at the request, after hearing in open session, declare it

was not to the interest of the State of Alabama or consistent with justice that a pardon or commutation should be granted. It is a divine power, a kingly power, the power of the whole people—and for that reason the Committee thought the final responsibility should remain with the Governor himself.

The next provision of importance is the provision for a Board of Conciliation to settle disputes between employer and employe. It is very carefully guarded, because it provides that it shall be discretionary in any case whether the Board shall intervene or not. The Board is composed of the chief officers of State, with provision that the Governor in each case may appoint two additional members of it, who shall be citizens of the United States. This provision was made to enable each of the parties, if they desired to arbitrate, to be represented by one officer on that Board of really their own selection. It is provided that the award or finding of this Board shall be advisory merely, unless the parties stipulate in advance that they will abide the award, in which event it may be enforced by appropriate proceedings in the courts. We can all recall some instances in this State where the power of such a Board, and its moral influence, might have saved serious strikes and serious harm to the community. I will only add that in numbers of States there are statutory provisions providing for such Boards, not only in the State, but in every county in the State; and in some instances the courts themselves are armed with powers in this regard. It has been asked by a good many, why not make the award compulsory? Mr. President, it is utterly impracticable. Suppose there is a dispute between an employer and 500 of his employes who work for wages How are you going to enforce it if you decide against the wage-earner, except by putting him in jail? That would not do. And then, on the other hand, if the Board were to determine the value of the property of the employer, and the value of the use of his skill in the business and say that he should conduct his business of such terms as that, and have power to force him to do it, the man would become really a State-tenant of his own property. These were the reasons why the Committee made the Board's finding advisory merely. I may state in that connection that confining the Board to that sphere seems to be in accordance with the best thought of the highest officers of the American Federation of Labor on the one hand, and many persons who are denominated capitalists on the other. Now, there is only one other change—no two changes—to which I desire to allude—

MR. WEATHERLY—Before the gentleman passes from that would the gentleman permit a question?

THE PRESIDENT—Does the gentleman from Montgomery, permit a question.

MR. JONES—Certainly

MR. WEATHERLY—Did your Committee have the statute of any State on which this provision were founded or after which it was copied.

MR. JONES—It is not copied from any particular law or any particular provision, but the most elaborate system of legislation on that subject in American the gentleman will find in the laws of the State of Pennsylvania, and there are also like provisions in the Statutes of New York.

Now, there are only two other provisions to which I shall refer. One is an addition to the Article on Sheriffs. That provides if a prisoner is taken from jail, or the custody of the Sheriff or his Deputy, owing to his cowardice, neglect or other grave fault, and put to death, that the Sheriff may be impeached before the Supreme Court of Alabama, and that the Governor may, in his discretion, suspend him pending trial. The Committee believed that it was the duty of this Convention to put sentiments in the organic law that would teach us for all time, not only those of us who are now living, but those who are to come after us, that when a man is in the hands of the law the law alone should deal with him, and if officers placed in charge of the lives of prisoners, who are rendered helpless at the behests of the law, fail to live up to the standards of duty which ought to actuate every man who is another's keeper, that the people using this great power of impeachment which was meant to reach offenders who were so high that they could not be properly dealt with in the smaller courts or other tribunals, to bring them before the bar of justice and arraign them. The Committee believes and hopes that the manifest reasons which actuated them in reporting that part of the article will find a hearty approval on the floor of this Convention, and I will therefore pass on to the other and last material change.

There is a section which provides that in event there is a surplus at any time in the Treasury, not needed for the immediate wants of government, that the Governor and Treasurer, or the Governor and Auditor, may lend it out on call, or for such time as they deem advisable, on collateral of State or United States bonds, after giving one week's published notice, and shall then loan it to the highest bidder. That is the original report of the Committee with the amendment offered yesterday as to the best bidder. I will say in behalf of the Committee only one word as to that. If you once admit the proposition that the money in the Treasury ought ever, under any circumstances, leave it, except in payment of the debts of the State, then this provision is wise, safe and in all respects commendable. It seemed to us, therefore, Mr. President that the only legitimate and fair objection which could be urged to the section would be that it was improper, under any circumstances, for the public moneys to leave the vaults of the

State. We all know that the State, very much like a farmer, makes crops by the year. It raises its taxes by the year, and it must have on hand at one time in the year sufficient money to pay all of its expenses. This results in a large surplus at times. Now, what is to be done with that money? Any prudent trustee, if he had a million dollars in his hands for which he had not immediate use that he could safely loan out, would say it is my duty, if I can do it safely, to get something for this trust estate, and not let this money lie idle in the Treasury. That is the principle upon which that ordinance was offered. There has been, and perhaps is now, a sentiment that a large amount of money, sometimes a million dollars, under exceptional circumstances, should not be hoarded in a vault, when the people need it in circulation, and some propose to deposit it in bank by taking security for its return; but the answer to that, it seemed to us, was that if this money must go out of the vaults at all, and anybody was to get the interest on it, that it should be the State, and not the depositories where it might be left upon proper security, and who would loan it out and get the interest.

Those, Mr. President, are in the main the views which actuated the majority of the Committee on the matters referred to.

As the House knows, there is a minority report. Some difference among the members of the Committee on some of these amendments, which they of course will defend and announce at the proper time. I now withdraw the motion to put this ordinance on its third reading, and move that it be considered section by section.

MR. WEATHERLY—Before the gentleman yields the floor, I would like to ask him a question.

MR. JONES (Montgomery)—Certainly.

MR. WEATHERLY—In the event of the suspension of the Sheriff, under the last section referred to in the Article, is there provision made for the appointment of some person to perform the functions of the Sheriff's office?

MR. JONES (Montgomery)—Not expressly in the Constitution. That must be supplied by the general law and the statute which makes the Coroner act when the Sheriff is incompetent.

THE PRESIDENT—The gentleman from Montgomery now withdraws his motion to order this ordinance to a third reading, and moves that it be considered section by section.

MR. deGRAFFENREID—Is an amendment to any section of the ordinance now in order?

THE PRESIDENT—Amendments are not in order until the section is reached.

MR. HARRISON—I rise to a point of order, and call the Chair's attention to Rule 51, wherein it is said that when an ordinance or article is reported to the Convention and a minority report accompanies the majority report, the ordinance or article accompanying the minority report shall be considered an amendment. I submit that under the rule, the proper question before the Convention is upon the amendment, treating the minority report as the amendment.

THE PRESIDENT—When the gentleman arose, the Chair was about to state to the Convention that there is a minority report which accompanies the majority report; but that report relates only to two sections, and the Chair presumes that the gentleman would prefer to have his minority report considered when those sections are read.

The Chair was about to ask the gentleman what his pleasure was in reference to that, when the gentleman from Lee arose. The question is on the motion of the gentleman from Montgomery that the article be now considered section by section.

The motion was carried.

The Secretary read section 1 of the Article as follows:

An ordinance to create and define the Executive Department.

Be it ordained by the people of Alabama in Convention assembled, That Article V of the Constitution be stricken out and the following Article inserted in lieu thereof:

ARTICLE V.—EXECUTIVE DEPARTMENT.

Section 1. The Executive Department shall consist of a Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education, Commissioner of Agriculture and Industries and a Sheriff for each County.

THE PRESIDENT—What will the convention do with the section that has been read.

MR. OATES — I would like to inquire of the Chairman of the Committee, what is the necessity for retaining in the Constitution, like the present one, State Auditor, and State Treasurer? Why retain the word State? Why not just have it Auditor and Treasurer?

MR. JONES (Montgomery)—Personally I do not see the slightest objection to striking it out.

MR. OATES—Then I move to strike out "State" just before Auditor, and "State" before Treasurer. We are not dealing with

the Auditor or Treasurer of any other State, and it seems to me to be useless repetition.

The President stated the question was upon the motion to strike out the word "State" where it appears "State Auditor" and "State Treasurer" in the second line of section 1.

THE PRESIDENT—Will the gentleman reduce his motion to writing.

MR. OATES—The Secretary, I presume, will take it down. It is very short. Strike out the word "State" in the second line before "Auditor" and the word "State" before "Treasurer" in the same line.

The motion was carried.

MR. LONG (Walker)—I have an amendment I desire to offer.

The amendment was read as follows: "Amend the ordinance by striking out the words "Lieutenant Governor" wherever they appear in any section of the ordinance.

MR. OATES—Mr. President, a point of order—

THE PRESIDENT—The gentleman will state the point of order.

MR. OATES—We are considering the first section. The gentleman cannot offer a sweeping amendment to the whole article, but only to that section.

THE PRESIDENT—In the opinion of the Chair, the point of order is well taken. The gentleman can offer the amendment to this section.

MR. LONG (Walker)—I offer it as far as it applies to section 1, then.

THE PRESIDENT—To strike out the words "Lieutenant Governor?"

MR. LONG (Walker)—Yes.

THE PRESIDENT—The gentleman from Walker moves to amend section 1, by striking out the words "Lieutenant Governor" in the first line.

MR. LONG (Walker)—Mr. President, I offer that amendment because I think it is unwise to create the office of Lieutenant Governor in this State. Under the Constitution of 1867, a Republican Constitution as it was called, the office of Lieutenant Governor was created in the State of Alabama. I among others, remember well when the Democratic orators went all over Alabama,

into every hamlet in it, asking that the people ratify the Constitution of 1875, and the main argument was that it abolished the office of Lieutenant Governor in the State of Alabama. I contend that we no more need the office of Lieutenant Governor in this State than a wagon needs five wheels. Why Mr. President, it leaves it optional with the Legislature to fix the salary for the office of Lieutenant Governor. It is reasonable to suppose that a man running for that great office would ask for at least fifteen hundred or two thousand dollars salary. It takes away the right of the State Senate to name their own presiding officer in that body, and I can see no danger in our present form of government, if the President of the Senate and Speaker of the House should succeed, as their names appear, to the office of Governor, in case of the death of the Governor, or for any other reason.

Why, Mr. President, we have pledged our faith, and we have gone before the people of Alabama and all the orators have pledged themselves to make only the few changes in the Constitution that are needed. We were called together, not for the purpose of creating more offices. I was unfortunately a member of the last House of Representatives, which has been cursed all over Alabama for appropriating unnecessary and unneeded money, and now we are asking the people to ratify a Constitution, and creating by that Constitution another high office in this State.

Why, in my humble judgment, the very mention of Lieutenant Governor in the Constitution will take from us ten thousand votes among the hill-billies of Alabama. Many of the people were taught to hate it by Democratic orators, and I was one of them. When but a boy, fifteen years of age, in seventy-five, I attended some of the Democratic meetings, and the first men I had seen since the Yankees that came in their with store bought clothes on, were these Democratic speakers, and they fought to a finish the Lieutenant Governorship in the Republican Constitution. It was then and there that I learned to despise the name of a Lieutenant Governor, and I learned it from such men as John T. Morgan and others in this State. I can see no use for this office, and I hope this Convention will consider well the fact that needless offices should not be created by this body. I do not believe that a sound and sane reason can be given why we should have it. I have always believe that the Senate itself, Mr. President, should have the right to elect its own presiding officer. I do think that the Senate of Alabama should have the right to elect its presiding officer. Why you might as well go on and say we should have a Lieutenant State Treasurer, a Lieutenant State Auditor, or a Lieutenant Member of the General Assembly, or a Lieutenant Bailiff in every beat, if you want to create more offices. Mr. President, on that ordinance, I want to go on record as opposing this proposition, because I deem it a useless expense, and inexcusable for lack of

necessity, and acting on that I have offered this amendment to the ordinance.

MR. THOMPSON—Mr. President, I regret very much to feel the necessity of differing with the Proctor Knott of Alabama. But, Mr. President, the gentlemen of the Convention, I have not that abject fear of the hill-billies that seems to characterize the gentleman who has preceded me. It is true that my county would be included in that list, and I among the number, but gentlemen of the Convention, I believe the hill-billies of Alabama have sense enough to see the necessity for this provision, and when presented to them they will approve it. Mr. President, a distinguished citizen of my county, if I mistake not, was the last Lieutenant Governor of this State, the lamented Dr. E. H. Moran, and it is my recollection that the fact that he held that office, likely prevented a bloody riot within these walls. That he by his courage took charge of the Senate of Alabama, and the joint convention of the General Assembly, and proceeded to canvass the ballot in the presence of Federal bayonets. That was one time, gentleman, in the history of Alabama, when a Lieutenant Governor was needed. It may go for forty years before it is needed again, but if it is, the slight expense that it will cost will be a thousand times repaid. If the fact that this Convention creates the office of Lieuetnant Governor prevents a contest, prevents litigation, or a riot within the lifetime of the present generation, then our work here will not have been in vain. And, gentlemen of the Convention, I think that this provision by the Committee on the Executive Department is eminently wise and should be adopted by this Convention.

MR. BOONE (Mobile)—Mr. President, I favor the retention of the words "Lieutenant Governor" in the first section of the Article, for reasons which I shall give briefly. In the event of the sickness, disability, removal out of the State of the Governor, as the Constitution provides, the people will have elected a man to serve them as Governor. They will have passed upon that proposition, and will have chosen that man with the view, if such a contingency arises, that he will be the Governor. Now, Mr. President, how does it operate at present? An election is held. It is true under the succession as the law now is, in the event of the disability or the death of the Governor, that the President of the Senate and then the Speaker of the House come in respectively, but do the people know who that man will be? A majority of the members elect the Speaker, and seventeen men elect that President of the Senate. The people do not elect him. He is not chosen as the Chief Magistrate of this State should always be chosen, and that is by the people, and that is why I support the Committee in creating a Lieutenant Governor for this State.

MR. OATES—I think my friend, the delegate from Walker, is laboring under a misapprehension, and I think I understand

particularly why the distinguished Chairman of this Committee is in favor of creating this office.

It is a fact, sir, that when the campaign was on in favor of the Convention in 1875, the Democratic speakers did in common with other innovations which had been made on our former system of State Government, denounce the Lieutenant-Governorship as wholly unnecessary. That was twenty-six years ago, and men ought to, if they do not, learn by time and experience. They change things and show many times a necessity for something perhaps which was not necessary a quarter of a century prior to that time. Now, sir, in the recent illness of our present excellent Governor, before he was sworn into office, it was a debatable question whether he would be able to be sworn in or not, and I remember well that the distinguished Chairman of this Committee, an ex-Governor of the State, and myself, conferred together, about the difficulties that might be engendered in the event of Governor Samford's death before he was sworn in. It had been ascertained that the then incumbent, Governor Johnston did not believe if Governor Samford dies, that he ought to surrender the Governorship to some President of the Senate, elected thereafter. It would have presented complications, and I think there is another delegate or two on this floor, who studied that question then and expressed doubts about it. Now sir, that is one of the troubles which is solvable by the proposition of this Committee. A Convention would naturally, when they nominate a candidate for Governor, select an excellent man for successor to that Governor; in the event that he should die before he was sworn in, or after, and then he is elected by the people,—by the voters of Alabama. The apprehension of my friend, the delegate from Walker, that it is creating a new office, with a higher salary, is not well founded. Delegates will see that it is left to the General Assembly to fix the salary of the Lieutenant-Governor and it does not follow that it should be a large salary. It ought to be something similar to the salary that is paid to the President of the Senate, and there is no doubt but what the General Assembly, or Legislature, which ever we will then call it, will look at it in that way, and make provision not greatly dissimilar or in excess of the amount now paid to the President of the Senate.

Why, sir, some gentlemen, and I used to when I was younger than I am now, and had seen a little less of the world, became prejudiced, especially in those days when we suffered so much from reconstruction, against every innovation that had been made as we characterized it by carpet-baggery upon our former institutions, and we knocked them out for that cause, rather than for anything founded in reason and good judgment. But I wish to call the delegates' attention to a thing not now before them, as an illustration. They invented some good things, though they did it imperfectly. One was a Commissioner of Industries. That

was abolished unceremoniously by that Convention. Now experience has brought us around to making it an addition to the office of the Commissioner of Agriculture—the only objection to which is the double name,—(that is to me.) I think the Commissioner of Industries would cover all, and that the General Assembly ought to require him to make a report to the Governor, and get it before the General Assembly and the public every year, as to the progress, and extent of the industries in coal production, iron ore and steel, and in fact every industry of the State because all will be informed then of our wealth and productive capacity. These, as well as agriculture, ought all to be embodied in a report, and it is no essential that he should be called Commissioner of Agriculture to reach just what we want. But it would be objectionable to call him by a similar name to that which was odious to us and we knocked it out, because it had been brought in not by the sanction of our people here.

Then again, I will mention by way of illustration, that they invented what was called a Board of Education. We abolished that largely for the reason that it was badly administered. It was not properly hedged about and made safe. But what delegate in this Convention will say today, that if that Board of Education had been properly limited and properly organized, it would not have been infinitely more capable to deal with and legislate upon the subject of education and schools than a General Legislature now is, or ever will be. But we wiped it out, instead of taking hold of it and improving it as we might have done. We acted on our prejudices. We might have improved it, and made it safe, and it would have been a splendid thing for Alabama and for the schools of the State.

So my friend's argument that this is a reproduction of something that the carpet-bag government of Alabama established, ought not to have that force which it seems to have in his very intelligent and discriminating mind. It is not a good objection at all, and I believe, sir, that every delegate who has read this provision, and thought about it, doubtless will adopt it, and if any excessive salary should be given to that officer, why the Legislature would be responsible for it, and not this Convention. I do not believe they will do that, and having stated my views briefly, I shall say nothing more.

MR. SOLLIE—I am going to, and do advocate the amendment, not because I object to the creation of the office of Lieutenant-Governor, but because of another consideration which addresses itself to my judgment and makes it become necessary for me to resolve a doubt which I now have respecting the policy of this convention in favor of economy. The difficulty which puts me upon the side of the question which I otherwise would not occupy, lies in the fact that the creation of this office, and the com-

pensation to go with it, are separated from each other, one being in Section 5 and the other in Section 7 of this ordinance. The two are not so that the Convention may consider them together. I know not what will be the wish and pleasure of this Convention when it comes to providing the compensation for the Lieutenant-Governor. If I knew that it was the sense of the Convention that he should receive pay only when actively in service—

MR. JONES (Montgomery)—Will the gentleman allow me one moment?

THE PRESIDENT—Does the gentleman permit the interruption?

MR. WILSON—Yes.

MR. JONES (Montgomery)—It will be perfectly acceptable to the Committee to have provision made at the proper place, if amendment is offered to that effect, and the Convention adopts it, that the Lieutenant-Governor shall receive no other or greater salary than that paid the Speaker of the House of Representatives.

MR. SOLLIE—A provision like that would remove my objections to the creation of the office, Mr. President, and I have nothing further to say. If the proper limitations and restrictions are put upon the compensation, I have nothing to say against the creation of the office.

MR. CASE—Mr. President, I wish to say, sir, that I am opposed to the amendment offered by the gentleman from Walker, and I am opposed to it for the reason that the people of the State of Alabama ought to have a right to select who may become the Governor of the great State of Alabama. The view that I take of this is, that he stands as heir-apparent if the Governor were to die, or for any other reason he should become disqualified, then he becomes the Governor of the State of Alabama. Mr. President, it is not disallowing the Senate to say who may predominate over it, or who may become its officer; it is denying the right of the whole people of the State of Alabama to say who may or may not become Governor. And, as to the reference, Mr. President, to hill-billies, and to the Democratic pledges all over the country, and what has been said, has nothin, as I conceive, to do with this great question, and I shall certainly vote against the amendment.

MR. HOWZE—Mr. President, I was the originator of this ordinance. After mature consideration, it seemed to me highly appropriate that the State of Alabama should have this important officer of Lieutenant-Governor. It seems to me that the State, in the first place, should have the right to directly say who should fill this office in the event that the person chosen originally should

become incapacitated, or should vacate the office for any reason. It seems to me it is a self-evident proposition, that it is best and proper for the people to select that person. There are several important reasons why this office should be created, it seems to me, and they have been mentioned by my friend, Governor Oates, and it is not necessary that I should take up the time of the Convention in arguing upon that proposition. I want to state, however, that I am as much averse as any other member of this Constitutional Convention to creating offices, and in drawing that ordinance, while I thought that it was an important office, I was afraid there might be objections to it because it was the creation of a new office, and I put in the ordinance the suggestion that the salary should be the same as that allowed to the Speaker of the House, I think that this is important. I think it should be done. When this Lieutenant-Governor is exercising no functions of the office, he should not be paid a salary. I, therefore, provided in the ordinance that he should be paid the same salary that the Speaker of the House receives and when exercising the office of Governor, then he should receive the salary. I think that is fair, proper and right, and I shall propose, when that point is reached, to make an amendment to that effect—That the salary shall be the same as that of the Speaker of the House.

MR. MERRILL—Having at heart the ratification of the Constitution, I think we should deal more especially with the paramount question upon which we stumped the State in the election, and that was the suffrage question. It was not desired, nor expected, that there would be any changes, unless the good of the people was clearly manifested. There was no expectation nor desire that any new offices should be created. There was no desire or expectation that any useless office should be created, and, believing, as I do, that this office, the very first thing that we do here, the very first ordinance we pass, and the very first section of that ordinance, provides for the creation of a new office, that the people of twenty-five years have gotten along well without; and when we go back to the people with this increase of offices, we cannot give them the reasons why. Now, before the Constitution of '75, this office existed. What reasons are there now for the creation of the office that did not exist in '75 when it was abolished? None that I can see. And, there being no good reason for the creation of the office, in my humble judgment, we ought to go to that part of the Constitution that needs our attention, and that part that we were sent here to reform and fix up, and not waste the time of the Convention by creating new offices for the Legislature or the people hereafter to fill. Why, suppose we go back to the county of Barbour with the Lieutenant-Governor on our hands, and want the Constitution to be adopted with him in there. You may know what the result will be. We will have difficulty enough, gentlemen, to get this Constitution through, when we do the best we can, on the questions

we were sent here to deal with, and not originate new clauses and originate new offices to encumber ourselves when we undertake to have the Constitution adopted.

MR. REESE— Mr. President, I should be opposed to this ordinance if I thought it created a new office. I assume, however, that this Convention will adopt the line suggested by the gentleman from Birmingham, that this officer shall receive no compensation except for the services that he shall perform. That he shall receive the same salary that the Speaker of the House receives. Assuming that to be true, I heartily favor the ordinance.

The remarks made by the gentleman from Barbour are not pertinent to the ordinance. Mr. President, this is not the creation of a new office. This is a changing of the name of office that we have had always, and an office without which we could not get along. Mr. President, under the present provisions and existing conditions this officer, this very important officer, who stands next in succession to the Governorship of Alabama, is selected by the Senate of Alabama, a body composed of thirty-three men. Assume that the parties in this State should ever be anything like equally divided and you might have a condition presented in that body of seventeen members of one party, and sixteen of the other party, and under the caucus rule, the invariable rule that has run from time immemorial, the selection of the Governor of Alabama would devolve upon nine men, who in some way happened to tumble into that Senate.

Mr. President, I am fully aware that the politicians have had a long ride and long lease of enjoyment upon the selection of this officer, next in succession to the Governor. They have enjoyed it ever since '75, and the statute of limitations has almost run against them, and I can see that they would be loathe to give it up. They would be sorry to surrender to the people of Alabama vested rights which they think they hold, and ought to have by reason of long enjoyment, but, Mr. President, if there is one thing apparent in the sentiment of the people of Alabama at this time, it is the progressive spirit that has moved them along the lines, to exercise a greater voice and interference in the management of their own affairs and the selection of their officers. The cry can be heard all over Alabama, and there are thousands of people in Alabama that favor a proposition to elect everything in the State of Alabama from a Constable to United States Senator. The people would like, they would prefer, to have the choice of naming the man who shall be Governor. Why should they be compelled to put that authority possible in the hands of nine men, who would constitute a majority of the caucus of one party in the Senate. It is not the creation of a new office. It is the changing of a name, and placing the appointment or selection back where it rightly belongs, to the people who will have to be governed by

this man, should he become Governor. Assuming, therefore, Mr. President, that a provision will be put in there that will safely guard the people from having or permitting the legislature to pay this man for any service that he does not perform, I am heartily in favor of the office and I say that the people ought to be permitted to have a voice in the selection of a man that may, perhaps, be their Governor.

MR. WILSON (Washington)—Mr. President, the chief objection to this office has been heard, so far, seems to be the expense attached thereto. In my very few years observation I have learned not to place too much trust in the General Assembly, when it comes to matters of appropriations. It seems to me though, that this objection has been partially met by the gentleman to my left, in the shape of a proposed amendment, which has been consented to by the Chairman of the Committee, and to further this idea I would like to ask the Chairman of the Committee, if he will consent, to a further amendment, placing a restriction on the legislature by prohibiting them from increasing or changing the pay of the Lieutenant Governor.

MR. JONES (Montgomery)—Mr. President, as the gentleman asks the question, I will say that I cannot answer for the Committee, but personally, I would not be willing to deal with that in the Constitution.

MR. WILSON (Washington)—Then, Mr. President, since the Committee declines to make the people absolutely secure against an increase of salary, I shall vote no.

MR. DENT—I had not expected to say anything upon this question. While I have very decided views about it and I regret very much that I differ with my colleague, I believe that this office is a wise one, and a useful one, and speaking for myself, I do not apprehend any difficulty in going before my people, and giving good and sufficient reasons why this office ought to be created, and I believe when that is done they will endorse the action of this Convention, if it so act in creating that office. Mr. President, several questions have been referred to in connection with this office, but there is one remark made by the gentleman from Bibb, who first addressed this Convention, in which the services of the last Lieutenant Governor which Alabama had, were commended. By the simple fact that he happened to have that office at that time it prevented trouble and perhaps a riot and bloodshed. I endorse what that gentleman says, because I know something of the history of those times.

MR. MERRILL—Would not the President of the Senate, if a proper man, have rendered the same services.

MR. DENT—He might, and might not. We have had an experience in reference to the office of Lieutenant Governor, and I am willing to stand on it.

MR. JONES (Montgomery)—I would like to ask the gentleman from Barbour a question. Wasn't the President of the Senate at that time a person who was a conspirator in an effort then on foot, the object of which was to throttle the will of the people of Alabama?

MR. DENT—I am reminded that that was the fact, and he was a man that was particularly odious to a large majority of the people of Alabama. But, as I say, if there were no other reason why that office should be created, I think that the very reason which has been given upon this floor repeatedly is a sufficient one, and, that is, that the people themselves should say who should be the successor of the Governor in the event of his death, or inability to discharge the duties of that office.

MR. WILLIAMS (Barbour)—I have some personal regret that the "State of Barbour," as it is sometimes called, is at some difference upon this question, and I cannot allow my friend who has just spoken upon this subject to speak for me. I do not agree with him. I have some personal recollection, too, of the inconvenience and bitterness of those days in which the Lieutenant-Governor was forced upon us. I hated him worse than I ever hated any mortal on earth, but my feeling towards him was more largely because of the crowd he came out of, than the fact he was holding a new office. It was one that was made in that time for the oppression of our people, and it was so used, but, Mr. President, have not recent events shown us the propriety of having a man of this rank in this office? Does not everybody here remember how the hearts of the people ached within less than twelve months past, when the present Governor, it was thought, had come to his end? When the question was as to who should succeed, when the presiding officer of the Senate had not been elected, and the probability was that the then incumbent of the executive chair would hold over, and that peculiar state of things which he favored would be visited upon the people, and how far many of them differed with him upon such questions and how something in the nature of the accidental, I may call it, prolonged the life of the Governor, and brought us all out of it? And we would be in the same state of suspense and tribulation today but for the fact that the organization of the Senate has been completed, and the State is under its regular form of government and administration. The honored incumbent of the Executive Chair of this State may be now breathing his last, we do not know, and if he is, who ought to preside in his place? A man elected by the Senate, or a man elected by the people of the State of Alabama? An office next highest to the Chief Magistrate of the State, to be

wielded by an incumbent, however honorable, elected by thirty-three men. Why, Mr. President, the Lieutenant-Governor would be elected at the same time as the Governor of the State. The people would know him; they would pass upon his efficiency in the event of the death or disability of the man elected to the chief position. There would be no surprises to them, no uncertainty to them in the situation; no forecasting of probabilities, but they would know definitely what to count and upon whom to count. I think, sir, for the satisfaction of the people of the State, when the expense is a matter of mere bagatelle, that we can safely go to them and meet them face to face, and tell them how and why we sought to provide for such emergencies as shadowed this State six months ago, and I am in favor of the proposition.

MR. SANFORD—I have but a few words to say, and I must say to my friend from Walker, to whom I always listen with great interest, that he is entirely mistaken with regard to the canvass of seventy-five. It so happened that I took a very active part in that: I advocated the Constitution of seventy-five, notwithstanding some objectionable features, principally because it was the work of our own people. It was ordained to substitute a Constitution that had been ordained by men from the four corners of the globe. Men who pretended to represent counties in whose boundaries they had never set foot. Men pretending to be delegated from counties whose names they could not pronounce. Strangers to our people. In the convention of seventy-four, which met in seventy-five, the chief objection, the great objection, was the Board of Education, and the Commissioner of Industrial Resources, whose ignorance was the laughing stock of all Alabama. He said when he was shown a piece of rock salt, that it was silver quartz out of which silver came. Of course the people objected to all these offices.

MR. OATES—He is the same man who discovered a brass mine.

MR. SANFORD—The same man. I want to say to my friend here, that he seems to be sensitive upon the question of the Senate's choosing its own officer. He thinks that thirty-three men ought to select the President of that body. If that be true, how much more important is it that eighteen hundred thousand men should choose their Lieutenant Governor who is but a Vice Governor. The Government of the United States elects a President and Vice President. Why should not the State of Alabama elect a Governor and Vice Governor? The Vice President has a fixed salary. The Lieutenant Governor of Alabama would have no salary according to the traditions of this country, except when he is presiding over the Senate, and then he will receive, and would now receive, I presume, the very same compensation that the President of the Senate receives. It is not a burden to our people.

I agree with the gentleman from Barbour, who is averse to creating new offices. No man is more opposed to numerous offices than I am. Offices are the source of weakness, and if the Government could be carried on without an officer, it would be the wisest invention in political affairs that the world has ever seen, but that is an impossibility, and therefore we should have just such officers as experience has taught us are necessary for the welfare of our whole people.

It seems to me there can be no just objection when the people have a right to choose their Chief Executive, that they should have the right also to say who should succeed him, in the event of a great calamity, or in the event of a resignation, or in the event of his departure from the State. What objection is there to it? The recent and present unfortunate conditions in Alabama teach us the importance of this measure. Seventeen men may choose your Lieutenant Governor, who possibly may take charge of Alabama, in the next six months. Why not let you avoid such a contingency, with eighteen hundred thousand people to choose your Vice Governor, before such a misfortune befalls you again? I hope, Mr. President, that the office of Lieutenant Governor will be created. It was objected to in 1875 for the reasons that I have just stated; that he was an officer created by a Constitution which the people of Alabama rejected by more than seven thousand votes, and which Congress itself had put upon us, and therefore everything connected with that Constitution was exceedingly odious to our people. Hence the abolition of the Lieutenant Governorship. The Board of Education and the Commissioner of Industrial Resources, which time has shown is necessary now, inasmuch as agriculture is no longer the chief industrialism of Alabama. Now we want it for the mines, now we want it for the factories; now we want it for all kinds of industries, and therefore it is proper that we should re-create it, under the form of Agricultural Commissioner and Commissioner of Industrial Resources or Industry, and so with the Lieutenant Governorship. I hope, gentlemen of the convention, that you will vote to make him an officer.

MR. BLACKWELL—I desire to state that during the campaign I made for the position of delegate in this Convention, on the stump in my country, everywhere I stated that I was in favor of the creation of the office of Lieutenant-Governor. In my county we have both classes of men that have been alluded to here. At least, we have men in the hills, and men in the valleys, our county being composed of hills and valleys. I did not find a solitary man either in the hills or in the valleys,—and we want to know something about the sentiments of the people, how this matter will affect them when it is carried back to them—that was opposed to the creation of the office of Lieutenant-Governor after the reasons for it were given—not a solitary one. The recent ex-

perience that has been here alluded to, was then detailed to the people there, and the difference between the friction that seemed imminent here when we knew hardly who would be Governor when we had a Chief Magistrate not sworn in, and the condition of our sister State of Kentucky, which went through the ordeal of losing her Governor and without friction her Lieutenant-Governor came in and took up the reins of government, was brought before them, and recognizing that they would have the right to pass upon the men who might become the Chief Executive of Alabama, they readily endorsed the proposition to elect a Lieutenant-Governor, believing it was right that we should, to as great extent as possible, restore the very genius of our government by giving the people the right to elect their own officers, thereby making it indeed a government of the people, by the people, and for the people.

Now, as to the statements of the gentleman from Barbour that the first act we are going to do is create an office. That is not the question that should actuate or govern a party of men assembled to make our organic law possibly for a century, the law which will not only guide us now, but which will possibly be the guiding light for six or eight millions of people in the time to come. The question is not whether the first thing we do creates an office, but whether we should pass the measure, whether it is right. That is the question. Knowing my people and believing they want the right to pass upon the qualifications of a man who may possibly be Governor of the State of Alabama and knowing that they are more competent to do it than any seventeen men in the State of Alabama coming from a county made up of hills and valleys, I most heartily endorse the measure proposed to create a Lieutenant-Governor for the State of Alabama.

MR. MARTIN—It is the policy and law of this State of Alabama and has been all through that the people have the right and privilege of choosing their Chief Magistrate. It was never intended that any other power save that of the people themselves should choose the man whom they desire to preside over their destinies for the term of the office of Governor. This is a privilege that the people are jealous of. They would not part with it under any circumstances. You elect a Governor and that Governor, as has been said, is subject to all the ills that flesh is heir to. He is liable to die, he is liable to become infirm and disqualified from discharging the important duties of his high and elevated position. In that event, someone else must take his position, someone else must take up the power that he lays down. Who shall it be? That was a question that agitated the minds of the leading men of the State of Alabama but a few months ago. If we lose our Governor, if death should strike him down, then who will place upon his shoulders the robe that the people have placed upon the shoulders of their Chief Magistrate? The people

did not select anybody to take it, and that was the question that agitated the minds of many in the State of Alabama at that time. It is right and it is proper that the people of Alabama should have a voice in saying who shall preside over them in the event their Governor is removed by death or by any other cause. Shall it be the President of the Senate? I say to you that the people of the State of Alabama had no voice in electing or selecting the President of the Senate to preside as Governor. He may be a magnificent man, he may preside over that learned body with dignity and with fine ability and yet not be the man that the people of the State desire to occupy the high position of Governor. Therefore, I say that at the time they elect their Governor, they should elect a second man to take up the powers and the duties of that office, if, unfortunately, the Governor shall be removed. There is a strong disposition, it seems, to bring on fewer elections in this State, to permit the State officers to hold for a term of four years. Now suppose you elect your Governor and in the course of a few months or of a year he is broken down by death or prevented by some other cause from filling that office? Then some other man that your people never thought of, that the people had no vote in selecting, presides over them for three or four years, as the case may be. Therefore, I say, Mr. President, let the people at the same time they select their Governor, select a man to take his place in the event the Governor is stricken down. No harm can result from this. It is but saying to the people "select two men, one as your Governor and the other to preside over you in the event of his removal."

It has been said by some that some people in sections of Alabama would object to this, that we could not go back among the Hill Billies with this kind of a Constitution and expect them to ratify it. I desire to say this: "When I cast my eye around this hall and see the magnificent assemblage of Alabamians that have gathered here, when I reflect that they are all animated by one earnest and patriotic desire, I have no doubt but what a Constitution will here be framed that will be sanctioned by the people and that will prove a blessing to the State of Alabama for years to come." Let us then, Mr. President, act with the best lights before us. Let us trust the people, confide in them, do our work well and in this instance say to them: "It has been possible that some man should preside over you as Governor whom you have not had the privilege of election, but henceforth your Governor, whether he be Governor or Lieutenant-Governor, the man who presides over your destinies as Chief Executive shall be a man of your choice and a man for whom you have voted at the polls."

MR. WHITE—I doubt whether I can add anything to what has already been said, but it occurs to me that we should consider this question and determine it upon sound reasons. We are told that certain classes of our fellow citizens living upon the

hilltops may oppose it. I have great confidence in the people. In fact, I have so much confidence in them that I am never afraid to do right, because I believe they will always approve of that which is right. The Chief Executive of the State is the chief officer of the State. By him the people of the State are judged By him the laws of the State are enforced because it becomes his duty to see that the laws are executed. Great questions of policy, great economic questions are presented which must be decided by him. He stands above every other office in the State in dignity, in power, and in authority. Then we should select him with more care and with more caution than we should any other officer, the selection of whom devolves upon us, and if the Chief Executive fills this high station, and must meet these requirements, is it not important that he who might succeed the Chief Executive should at least fill the requirements and meet the demands that we would expect of the Chief Executive himself?

It is now understood by this Convention, this very article itself proposes, that the term of this officer shall be extended to four years. By that very act we double the chances of the death or disqualification of the Chief Executive. He must live through four years and be able during that time to discharge the duties of his office. Heretofore his term was only two years. Aside from this whether we select the best man or not, we know we have selected him and we are satisfied. Then there is it seems to me this great difficulty, not yet presented, except merely suggested in the outline given by the Chairman of the Committee. The Governor and the Senators who are to select his successor, if it is to be left to the Senate, are selected at the same time. Suppose for any reason, the Governor should not be capacitated to enter upon the discharge of his duties or suppose he should die before he became qualified, what is the result? At once a wrangle begins in the Senate, with the term of the Governor then expiring, a wrangle over the selection of their presiding officer. His qualifications as presiding officer are laid aside and forgotten. The ambitions of men and the intrigues of men enter into that question and into that controversy. How long may that deadlock last? Who can tell when they will decide who shall be their presiding officer during that long time—who will discharge the duties of that office. I say to you, Mr. President, and gentlemen of the Convention, there is nothing so momentus, so full of danger to the people as a threatened dual government. It seems to me that there are strong, yes, are potent reasons along this line why this question should be settled, and settled at once. Then, again, I believe that the who people of Alabama, taken as a State, can make a wiser and more conservative selection than any number of the gentlemen who have been selected to represent their respective districts in the Senate.

Again, when we look at it from the standpoint of party responsibility, our scheme should provide when we elect and place a party in power we should hold it responsible for the administration. How would it be if the State was one way politically and the Senate another way politically. I say, Mr. President and gentlemen of the Convention, in my judgment there are strong reasons why this provision reported by the Committee should be adopted.

MR. OATES—I desire to ask the delegate a question.

THE PRESIDENT—Does the gentleman consent to be interrupted?

MR. WHITE—Certainly.

MR. OATES—I ask it for the purpose of impressing on some who do not quite take in the situation: This provision is not to affect the present condition? It so happens that the present President of the Senate is a very excellent and capable gentleman, but this provision which we propose to put in the new Constitution is to guard against any future trouble, is it not?

MR. WHITE—Yes, sir. We only look, as suggested by the delegate from Montgomery to the past and present for a lesson to guide us in the future. It is the future for which we are providing, not the past or the present, our action cannot affect either the past or present condition of affairs.

So far as the salary which is to be provided for is concerned, I understand an amendment has already been agreed upon by the Committee by which they will limit the salary of the Lieutenant Governor to the amount of salary to be fixed for the Speaker of the House of Representatives and I think that will meet the objection of the gentleman from Washington when he considers it and sees it in all of its bearings. The legislature of Alabama have not in the past, so far as I am informed, and do not believe they will in the future create a salary for the Speaker of the House greater than he deserves.

MR. OATES—The rule of the General Assembly has been stinginess in regard to salaries. They have not given any great salaries.

MR. WHITE—I think that suggestion is true, and I do not have any fear along that line, and while I dislike always to differ with my friend, the distinguished delegate from Walker, I feel it is my duty on this occasion to differ with him and trust the Convention will adopt this section of the Committee's report.

MR. O'NEAL—From the progress we are now making in the consideration of these various sections it is clear that we shall consume a week on them, and I, therefore, move the previous question on the amendment of the delegate from Walker.

A vote being taken the previous question was ordered and a further vote being taken the amendment of the delegate from Walker was lost.

MR. JONES (Montgomery)—I now move the previous question on the section as amended.

MR HEFLIN—I move the adoption of the first section as amended.

MR. OATES—I don't think it is necessary or proper to use too many words, that we should use as few as possible, and I desire to ask the Chairman of the committee why not strike out the word "Agriculture" and have it "Commissioner of Industries?"

MR. JONES—The committee determined that matter and for reasons not necessary now to be stated fixed upon the name as reported, therefore, I am unable to accept the amendment.

Murmurs of disapproval being audible the suggestion was not persisted in.

A vote being taken the previous question on the section was ordered.

THE PRESIDENT—The question is on the adoption of section 1 as amended. All those in favor of its adoption will say aye.

MR. PARKER (Cullman)—Rule 49 requires that the adoption of any section or article of the Constitution must be by a yea and nay vote.

THE PRESIDENT—The attention of the Chair is called to rule 49 which reads:

Rule 49—Upon the final adoption of any article or section of the Constitution the vote shall be taken by yeas and nays and spread upon the Journal and the article as adopted shall be spread upon the Journal and be referred to the Committee on Order, Consistency and Harmony of the Constitution.

That rule applies to the adoption of an article as a whole and not to each section. All those in favor of this section will say aye.

MR. O'NEAL—I move to reconsider the vote by which "State" before the word "Auditor" and the word "State" before the word "Treasurer" in the second line were stricken out.

The Chair has not announced the result of the vote. The Chair would announce that the section as amended is adopted.

MR. O'NEAL—Then I now move to reconsider the vote by which the word "State" in the second line before the word "Auditor" and before the word "Treasurer" were stricken out.

MR. SOLLIE—My recollection is, Mr. President, that the negative side of the vote was not put to the Convention on the adoption of that first section of the report.

THE PRESIDENT—The gentleman is correct. As many as are opposed to the adoption of the section will say "No."

The section was adopted.

THE PRESIDENT—The Chair was interrupted by the point made by the Delegate from Cullman.

MR. JONES (Montgomery)—I move the adoption of Section 3 of the ordinance and on that I move the previous question.

MR. SMITH (Mobile)—I make the point of order that a motion to adopt a section and the previous question cannot be called for at the same time.

MR. SOLLIE—I second the point of order.

MR. JONES (Montgomery)—I do not understand the gentleman's point of order.

MR. PRESIDENT—By the rules under which we are proceeding, it is necessary for the Clerk to read this section 2. It has not been read and the Chair will direct the reading. The Chair will then recognize the gentleman from Montgomery to make whatever motion he desires.

Section 2 was read as follows:

Sec. 2—The Supreme Executive power of this State shall be vested in a Chief Magistrate who shall be styled "The Governor of the State of Alabama."

MR. JONES (Montgomery)—I move the adoption of that section.

MR. OATES—Before that motion is put let me ask the Chairman why not strike out the words "the State of" and have it read simply "the Governor of Alabama."

MR. JONES (Montgomery)—There was no particular reason why it should be exactly this way but we desired to avoid making changes where there were no real substantial reasons for them. Some people thought it better, that it sounded better "The Governor of the State of Alabama" than "The Governor of Alabama."

MR. OATES—It seems to me the greater brevity, the better in a Constitution, so long as there is no doubt as to the meaning.

THE PRESIDENT—Does the gentleman from Montgomery (Mr. Oates) desire to propose an amendment?

MR. OATES—I move to strike out of line 2 the words "Of the State," so that the section will read "Sec. 2. The Supreme Executive power of this State shall be vested in a Chief Executive, who shall be styled 'The Governor of Alabama.'"

MR. O'NEAL—And I move to lay the motion on the table.

A vote being taken on a division the motion was laid on the table, 70 yeas and 56 nays.

THE PRESIDENT—The question now recurs on the motion of the gentleman from Montgomery (Mr. Jones) to adopt Section 2 as read.

A vote being taken the section was adopted.

The Secretary will read the third section.

The third section of the report was read as follows:

Sec. 3. The Governor, Lieutenant Governor, Secretary of State, State Treasurer, State Auditor, Attorney General, Superintendent of Education and Commissioner of Agriculture and Industries, shall be elected every four years by the qualified electors of this State, at the same time and places appointed for the election of members of the General Assembly.

MR. JONES (Montgomery)—On behalf of the Committee I move to amend Section 3 by adding after the words "shall be elected" in the third line the words "on the first Monday in August, 1902, and thereafter." The object of that is to prevent any doubt under the section as to whether the first election for Governor shall come four years from now, leaving the present incumbent in until that election. The object of the amendment is to have the election come in August, 1902, and every four years thereafter.

MR. PILLANS—May I ask the gentleman a question?

MR. JONES—Certainly.

MR. PILLANS—Would it not be better to say "at the State election in 1902," to conform to a charge in the time of holding elections, if any such is made? For instance, there is a strong feeling to have the elections in the Fall.

MR. JONES—I think that may be, but I will offer this suggestion so that we may get along. I understand when the report of the Legislative Committee comes up, we will have a test as to whether we shall have elections every four years for members of the General Assembly instead of two years, and then the Committee on Harmonies can take up the two reports and fix them to suit the final vote of the House on this question.

MR. OATES—In addition to what the delegate from Mobile suggests, I would say to the chairman of the committee, that the matter of the date of the election has been before the Legislative Department, and that committee has acted on it, not finally, but by a majority vote, and have agreed to abolish the August election, and have the election in November, so as to avoid so many elections, and I would suggest to the gentleman from Montgomery, the chairman of this committee, to accept the suggestion of the delegate from Mobile, as that will allow us to get along without any conflict.

MR. JONES (Montgomery)—I think there is force in the suggestion, and we will accept the amendment and strike out the words "on the first Monday in August, 1902."

MR. FITTS — And insert in lieu thereof, "at the general State election in the year 1902, and thereafter, etc."

THE PRESIDENT—The gentleman from Montgomery, for the Committee on the Executive Department, moved to amend the section by adding after the words, "shall be elected" the following words, "at the State election in 1902 and thereafter."

A reading of the section as thus amended was called for, and it was read as follows:

Section 3. The Governor, Lieutenant-Governor, Secretary of State, State Treasurer, State Auditor, Attorney-General, Superintendent of Education and Commissioner of Agriculture and Industries, shall be elected at the State election in 1902 and thereafter every four years by the qualified electors of this State, at the same time and places appointed for the election of members of the General Assembly.

A vote being taken, the amendment was adopted.

MR. BROWNE—In order to have this section conform to Section 1, I now move to strike out the word "State" before the word "Treasurer" in the first line and the word "State" before the word "Auditor."

The amendment was agreed to.

MR. OATES—I desire to offer an amendment to this section and briefly to state my reasons therefor.

I move to strike out of this section the words "Attorney-General," and on that to test the sense of the Convention for what may properly be substituted.

My motion is based upon the idea that the Governor of the State ought to appoint the Attorney-General. It is not a political office, and while in the main good lawyers have usually been selected, as it now stands any lawyer who may be a shrewd politi-

cian, more of a politician than of a lawyer, who succeeds in getting nominated on the ticket, will be elected Attorney-General. The Attorney-General ought always to be an able lawyer. He is the adviser of the administration with whom he serves and it seems to me it would be a wiser and better provision to allow the Governor at the time he is inaugurated, or soon after he goes into office, to nominate the Attorney-General, to be confirmed or rejected by the Senate, as officers usually are appointed, "with the advice and consent of the Senate."

Some of the other States have this provision, and in one where I had occasion to inquire into its workings, the State of Pennsylvania, they are thought to be admirable. It is not, I think, very important that this officer should be elected by the people, and I believe it will be the means of more uniformity—in fact, I believe it will be the rule, without exception, that able officers will be appointed. Naturally, when the Governor has the appointment to make, he will select one of the best lawyers in the State that he can get to accept and since we see in this report a proposed section, which, no doubt, will be adopted, that the Governor is to hold his term for four years and be ineligible as his successor, or to any office for a year after his term has expired, he would not use this office, as under the present system a Governor might do, in the distribution of patronage to benefit himself in the future. A Governor would have no object in making the appointment, except to get the very best officer he possibly could, and what we all desire to do is to elevate as high as possible our future State government, not only in its suffrage, but in its personnel, and in its administration. In what I say, I mean no reflection at all upon any gentleman who has filled the office of Attorney-General. On the contrary, many very able gentlemen have occupied that position. Our present Chief Justice of the Supreme Court and many other able gentlemen have held that position, and I think, for the reasons I have given, it will more certainly secure the services of an able lawyer, and I, therefore, move to strike those words, and if that is done will offer a substitute in proper language that that officer shall be appointed by the Governor, by and with the advice of the Senate.

MR. FITTS—The distinguished delegate who has just taken his seat, makes the motion to strike out the words "Attorney-General" for the express purpose, as he gives us warning, of testing the sense of this Convention upon a proposition looking, as he says, to having the Attorney-General of the State appointed by the Governor. Therefore, addressing myself to the point upon which he says he desires to test the sense of the Convention, and, in order that it may be tested fairly and disposed of now and forever, I desire to call attention to some of the objections which seem to me to stand in the way of and should defeat the proposition he suggests.

He states that the Attorney-General ought not to be elected by the people, for the reason that some lawyer who is a politician may be nominated and elected Attorney-General. There is, of course, always the danger of politicians getting offices as long as we have offices for them to get; but the danger of a lawyer with a political turn of mind getting an office at the hands of the people is hardly so grave, hardly so likely as his getting it through the appointment of a Governor. Furthermore, the office of Attorney-General is the very office of all others under our State Government as administered today that ought to be absolutely independent of interference and control of any officer in the State of Alabama.

So far as being the legal adviser of the administration, he is, but he ought not to be, the property of the Governor in order to advise the Governor to do things his way. He is the adviser, not so much of the administration he is the check in his advice upon all of the administrative departments. It so happens, as every member of this Convention knows, that a written note signed by the Attorney-General to any officer of this State is an absolute protection to that officer in any proceedings upon his official bond. That man ought to stand on the high ground of absolute independence. And he can have that pedestal under his feet better, whether politician or not, whether good lawyer or poor lawyer, when he stands upon a foundation coming to him from the vote of the people, and of the whole people. He is as often called upon to pass upon the validity of the orders of the Governor of the State as he is upon the orders of any other officers in the State excepting the Auditor. Not everything that the Governor of this State does goes by any means. It very often happens that the order of the Governor is submitted to the Attorney-General and it has happened at some times in the past and it is liable to happen in the future that the Governor, in the press of business, with views of his own, not giving as much attention to the law department of the Government as to other departments, will overlook clauses in appropriations bills; and that the opinion of the Attorney-General very often brings to his attention matters and things that he had neglected to observe, and restrains payments of money and other official acts of the administration that might have taken place but for the intervening clause.

The Attorney-General advises every officer of the State Government. He is no more the adviser of the Governor than he is of any other State officer. To be entirely frank and plain about this office, he is more the adviser of the Auditor, by far, than he is of any other officer of the State, and with the exception of those large matters that govern the political future of the State and that attached the great office of Governor, it may be safely said in a very large degree the Auditor and Attorney-General run the ordinary, every-day State Government under which you live. The

Governor of the State could safely remain out of the State for any reasonable length of time and with the conscientious faith that, with the Auditor and the Attorney-General advising him as to the law, if he was honestly observing the law and trying to get at its true solution, the Government could go on fairly well and without friction for a considerable length of time.

Now, Mr. President, if this should be taken away from the people at all, to which I am absolutely opposed, it ought not to go into the hands of the Governor to appoint this law officer, this hand that can step in and say you can't do that, this hand that is made to stay the proceedings of the Executive itself when he calls attention to the fact that the Executive is over-stepping the bounds of the law. This man whose opinion is made by your law an absolute protection to any officer to whom he gives it. This person should not be appointed by the Executive's hand. If it should be taken from the people it should be given to some other body and if it should be removed from election by the people, the better plan would be to have him chosen by the Supreme Court of the State as is the case in Tennessee and several other States of the Union. For next to the important work of advising the different departments in giving opinions that protect them, his next most important work is to attend to cases in which the State is interested, civil and criminal, in the Supreme Court and in other courts of the State.

I am aware that the gentleman who makes this motion has had this in mind for several years. I know that he was of the opinion that the Attorney Generals should be chosen by the Governor during the long and close and affectionate personal intercourse between us and which I cherish to this day, I am aware that he thought then that the Attorney-General should be chosen by the Governor in order that he might be removed from the possibility of falling into a political channel, but although it comes from a strong source I do not think it is a wise suggestion. It will not do at all unless you restrict the State Government in many particulars. So long as he stands and he ought to stand, I believe the Attorney-General ought to continue as an independent arm of the Government, having great power — great power to check the other arms of Government. He ought not to be appointed by the Governor, because while many Governors would appoint the very best men they could find and would not be controlled or animated by the feeling that after the appointment they would have any property in him, yet the temptation when the acts of the Governor were called in question, when orders upon the Auditor and Treasurer signed by him were brought to the attention of the Attorney-General, the natural tendency, the natural disposition of this man appointed by the Governor would be to lean to his side.

MR. WADDELL—I move to lay the motion of the delegate from Montgomery to strike out the words "Attorney-General" on the table.

A vote being taken, the motion to table was carried.

THE PRESIDENT—The question now recurs on the motion to adopt Section 3 as amended.

MR. COLEMAN—It seems to me that the phraseology of that Section could be improved. "Shall be elected at the general State election in 1902 at the same time and place appointed for the election of members of the General Assembly." The time and places for the election of members for the General Assembly is certainly not 1902, "Shall be elected the same time and place as the election of the members of the General Assembly in 1902 and every four years thereafter" is the way it seems to me it should read.

THE PRESIDENT—The Chair will ask the delegate who proposes the amendment to reduce it to writing.

MR. JONES—If the gentleman will write it out, as it appears to be simply endeavoring to straighten this section out, we will accept it. And if gentlemen will pardon me for the suggestion—I make it in the utmost good faith, if we can get at the substance of what is right, this Committee on Harmonies will attend to any bad breaks in grammar or style.

MR. COLEMAN—That is all right but surely the phraseology is bad now.

MR. JONES—The Committee has already accepted the gentleman's suggestion.

Several delegates here addressed the Chair, desiring recognition.

THE PRESIDENT—The delegate from Greene has the floor and is writing an amendment.

MR. BURNS—I rise to a question of privilege.

THE PRESIDENT—State the question.

MR. BURNS—There was permission given me this morning during some lull in the proceedings and I will send it up now.

THE PRESIDENT—The Chair does not recall any special license granted to the gentleman from Dallas any more than he usually exercises. The gentleman from Dallas asks unanimous leave to send up an ordinance.

The leave was given.

Ordinance No. 368, by Mr. Burns:

To amend Article eight (8) of the present Constitution by adding or inserting the following:

All veterans of the civil war of 1861-'65, and all male persons 21 years of age, who are legitimately related to ex-soldiers by blood or marriage, and all ex-slaves who were 21 years of age January 1st, A. D., 1861, residents then, and who have continued to reside in this State, who are not debarred by some provision of this Constitution, shall be entitled to vote.

Referred to Committee on Suffrage and Elections.

Ordinance No. 369, by Mr. Burns:

Be it ordained by the people of Alabama in Convention assembled that the following classes shall not be allowed to register, vote, or hold office:

1. Those who are bastards, or loafers or who may be infected with any loathsome or contagious disease.

2. Those who shall have been convicted of treason, bribery, forgery, larceny, robbery, bigamy, seduction, incest, murder, rape, or any attempt to rape, arson, or an attempt to burn houses or property, burglary, or an attempt to burglarize, embezzlement, crime against nature, malfeasance or misfeasance in office, vagrancy, or obtaining money or goods under false pretense, who have not been pardoned and restored by the proper authorities.

3. Those who are descendants of parents, who are of or descendants of two or more different races, those who shall have married any woman having a living husband, from whom she has not been legally divorced, those who shall have married another woman before they have obtained a legal divorce. Those against whom a decree of divorçe has been rendered by some court. Those who shall have lived in open, continuous adultery or fornication. Those who have committed an assault and battery upon his wife, or step-daughter, or paramour and those who have ever cast an illegal ballot, and those who have bought the vote of any elector, or who have ever sold their own vote, or who have not paid a poll tax of $1.50 six months before any election, at which he may attempt to vote.

Same reference.

MR. COLEMAN—I move to amend Section 3 by striking out all of the section beginning with the words, "And four years," and substitute therefor the following, "shall be elected at the same time and places appointed for the election of members of the Gen-

eral Assembly in 1902, and every four years thereatfer, by the qualified electors of the State.

MR. JONES—The committee is entirely satisfied with that.

Mr. Pillans—I offer a substitute for the amendment of the gentleman from Greene.

The amendment was read as follows:

"Amend by adding after the words 'shall be elected' the words 'in the year 1902, and thereafter every four years.'"

MR. HEFLIN (Chambers) — I move that the Section as amended be adopted.

THE PRESIDENT—The question is on the substitute of the delegate from Mobile for the amendment offered by the gentleman from Greene.

MR. PILLANS—I will strike out the words "every four years," because they are already printed.

A vote being taken, the substitute was lost. A further vote being taken, the amendment of the delegate from Greene was adopted.

MR. HEFLIN (Chambers)—The hour for adjourning has arrived.

MR. BURNETT—I offer an amendment.

THE PRESIDENT—Let the amendment be read.

The amendment was read as follows:

"Amend Section 3 by striking out the words where they occur 'on the first Monday in August,' and inserting in lieu therof, 'on the Tuesday after the first Monday in November,' and add to said Section 3, at the end, the following words: "The Legislature shall have the power to change the time of holding elections.'"

MR. HEFLIN (Chambers)—I renew my motion.

The President then announced various meetings of the committees, and the Convention adjourned.

CORRECTIONS

In the report of proceedings of Monday, June 10th, at the bottom of report of Committee on Executive Department, after Mr. Macdonald's first remark, it should read:

MR. JONES (Montgomery)—If the gentleman from Montgomery will allow me, I will explain that these amendments merely relate to what we feared might be obscurities in the terms of

the officers first elected; the other amendment relates to the case of a Governor declared of unsound mind claiming that he had been restored, and the officer exercising the office refusing to surrender on the ground that the Governor was still of unsound mind.

EIGHTEENTH DAY

MONTGOMERY, ALA.,

Wednesday, June 12, 1901.

The convention met pursuant to adjournment, was called to order by the President and the proceedings were opened with prayer by the Rev. Mr. Stakely as follows:

Let Thy smile be upon us O God, our Father, as we enter into the duties of this day. In great mercy look upon the people of the State at this time, deprived as they have been of their Chief Executive. In great tenderness look upon the bereaved family. Help us all to recognize Thy hands in this providence and may the family and the entire circle of his friends and the people of the State profit by every recollection of the graces that adorned his character and the virtues that shone in his life. Sanctify all these to the good of the family at large. Bless us in our State life and in our National life. Let Thy blessing be upon Thy servant, the President of the United States, and all who are associated with him in executive trust; upon the National Congress and upon the National Judiciary; upon the Governors of the States; upon State Legislatures, upon the State courts; upon the Mayors of all the cities; upon municipal councils and the local courts; upon the people everywhere. Grant that through the public servants of the people, the people themselves may be lifted up in holiness and righteousness and temperance and truth. Give us God fearing rulers, and give us God fearing people.

Now watch over us we pray Thee and cause us to feel that we are in Thy divine sanction by applied to all that we think and feel and say and do and to Thy great name shall be the praise forever, through Jesus Christ our Lord, amen.

THE PRESIDENT—The Secretary will call the roll.

MR. HARRISON—I desire, Mr. President, to offer a resolution, and I ask unanimous consent for its immediate consideration.

THE PRESIDENT—It seems to the Chair that the roll of delegates should be called for the asertainment of a quorum, before the convention transact any business.

MR. HARRISON—By unanimous consent it might be dispensed with as time is very essential.

MR. BROOKS—Mr. President, I hope that the suggestion will not be carried out. I think it is very important that we should call the roll.

THE PRESIDENT — The Secretary will call the roll of delegates.

Upon a call of the roll 137 delegates responded.

MR. HARRISON—I now desire to offer the resolution sent forward to the desk.

Whereas, the immortal spirit of William J. Samford, the distinguished Governor of Alabama, has passed from earth to the God who gave it, leaving the people of the entire State deeply impressed with a lively appreciation of his manly character and many virtues; and with a profound sense of the great loss sustained by the State, and

Whereas, his remains will reach this city from Tuscaloosa by special train about 6 o'clock this afternoon; now therefore, be it resolved

First—That this convention stand adjourned until Thursday at noon as a mark of respect to the lamented dead.

Second—Be it further resolved. That a committee of nine from this convention be appointed by the President to proceed to Tuscaloosa to escort the remains to the capitol and attend his funeral.

Third—Be it further resolved, That the family of the deceased be requested to allow the remains of the distinguished dead to lie in state in the capitol during tomorrow, Thursday, until removed to his home at Opelika.

MR. HARRISON—I move the adoption of the resolution by a rising vote.

THE PRESIDENT — The gentleman from Lee moves the adoption of the resolution by a rising vote.

A vote being taken the rules were suspended, and the resolution was unanimously adopted, by a rising vote.

THE PRESIDENT—The Chair will appoint on that committee the following gentlemen: Messrs. Harrison, Robinson, Searcy, Jones (Montgomery), Williams (Marengo), Ashcraft, Cunningham, Graham (Talladega), Davis (Etowah).

MR. HARRISON—I desire to notify the committee appointed that carriages are now in waiting for the committee at the front steps of the capitol.

MR. REESE—I desire to amend the resolution. I think the propriety of the amendment will occur to any one from a reading.

MR. BROWNE—I ask that the resolution of the gentleman from Dallas be read and by unanimous consent it can be added to the resolution already adopted.

THE PRESIDENT—The gentleman can offer it as an independent resolution.

MR. WHITE—I rise to a point of order, The Convention has adjourned.

MR. BROWNE — I ask unanimous consent that this little resolution be read. I think every gentleman will see the propriety of it.

MR. WHITE—I insist on my point of order.

THE PRESIDENT—State the point.

MR. WHITE—That under the resolution adopted, the convention is adjourned.

THE PRESIDENT—In the opinion of the Chair the point is well taken and the convention stands adjourned till Thursday at 12 o'clock.

NINETEENTH DAY

MONTGOMERY, ALA.,

Thursday, June 13th, 1901.

MORNING SESSION

The convention met pursuant to adjournment, was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Gay, as follows:

O Lord of Hosts, thou dost behold a State prostrate before Thy throne clothed in sackcloth, who stand around all that now remains of our illustrious and beloved chief. We thank thee that thou hast given to us such a noble specimen of manhood. We trusted it would be he who should bring about a fair and just settlement of many questions at this time. But he is fallen. O God, give grace to sustain us in this beclouded hour.

We commend to thy merciful regard and tender compassion the afflicted family of the deceased. Thou seest how their hearts are stricken with sorrow and wrung with agony. O, help them as they are now passing through the dark valley and shadow of

death, to fear no evil, but to lean upon Thy rod and staff for support. O Thou who was sent by the Lord Jesus to be the comforter do thine office work now. And as they proceed slowly and sadly on their way with the remains of a husband and father to consign them to their last, long resting place, may they look beyond the grave to the morning of resurrection, when that which they now sow in weakness shall be raised in strength and what they now sow a mortal body shall be raised a spiritual body; and shall be fashioned like unto Christ's most glorious body.

Bless the new Chief Magistrate. We can only pray that the mantle of his predecessor may fall upon him. Bless the President of this convention, give him wisdom and discretion and judgment. Be pleased to endow this body of men with Thine own wisdom, and may they devise just laws. O hear the cry and the prayer and the tears of a State's smitten heart and vouchsafe Thy comforting and all powerful guidance as we ask it all through Jesus Christ our Lord, Amen.

The roll was called and showed the presence of 139 delegates.

MR. HARRISON—I desire to offer a resolution which I now send to the desk and ask that it be read.

The resolution was read as follows:

Whereas the remains of Hon. W. J. Samford, late Governor of this State now lie in state in the capitol, and whereas,

His funeral services will occur at his home in Opelika Tomorrow, Friday, 9:30 o'clock a.m., and the delegates of this convention desire to attend these services, Now, therefore be it

Resolved, That this convention do now recess until 2:30 this afternoon, and that when it adjourns this afternoon, it adjourn to meet at 2:30 o'clock tomorrow (Friday) afternoon, in order to give the delegates the opportunity of attending said funeral services.

MR. HARRISON—I desire simply to state that this resolution has been prepared after consultation with the family of the deceased and the Rules Committee of this body and it meets the approbation of both.

I move the adoption of the resolution.

MR. GRAHAM (Talladega)—I move the suspension of the rules for the purpose of adopting the resolution.

On a vote the rules were suspended and on a further vote the resolution was adopted.

AFTERNOON SESSION

The Convention was called to order at 2:30 p.m. by the President, and upon a call of the roll, eighty-one delegates responded.

The report of the Committee on Journal was read, stating that the Journal had been examined and found to be correct. On motion the report was adopted.

LEAVES OF ABSENCE

For today—Mr. Reynolds (Henry).

Until Monday—Mr. Kyle, on account of sickness.

Indefinite leave granted Mr. Williams of Elmore on account of sickness.

MR. WHITE—Under the rules, do we not take up unfinished business, while we are working on the report of a Committee? I make the inquiry.

THE PRESIDENT — The Chair would hold that the construction the Committee on Rules seems to think is proper, is when we reach the call of Committees, the rule is this: "If the call of the roll for the introduction of resolution is not completed on any day, it shall be resumed on the next day where left off on the preceding day. This provision shall apply to the reports of standing committees." The view of the Committee on Rules, in which the chair concurred, was when we reached the standing committees in the order of business, we will go to where we left off; otherwise, we would omit the order of business, ascertaining the quorum, or the report of the Committee on the Journal.

MR. WHITE—I move that the rules be suspended and that we take up the report of the Committee on the Executive Department where we left off.

MR. JONES (Montgomery)—I would ask my friend from Jefferson to let the Committee on Executive Department make a report relative to an ordinance before the Committee. As I understand it he suspends the call for reports altogether. I would like to have liberty to send in this report for the Committee.

The leave was granted, and the report was read as follows:

The Committee on Executive Department direct me to report as a substitute for Ordinance No. 349, "To establish a great seal for the State of Alabama", the following:

Section 22. Commemorative of the heroism of Emma Sansom the great seal of the State, which shall be used officially by the Governor, shall consist of the figure of an officer on horse-

back, fully armed, and a young woman seated behind him, with her left hand pointing forward, and the legend, "I will show you the way." The said seal shall be called the great seal of the State of Alabama. The Committee recommended that Section 22 of the Ordinance "to create and define the Executive Department," as it now stands be stricken out, and that said substitute be adopted in lieu thereof. Thos. G. Jones, Chairman.

MR. JONES (Montgomery)—I move that that lie over until section 20 of the article is taken up, to which it refers.

THE PRESIDENT—The report would lie over under the rules and be printed.

MR. SMITH (Mobile)—I desire to make a report for the Rules Committee.

The report was read as follows:

REPORT OF THE COMMITTEE ON RULES

The Committee reports adversely to resolution No. 136, introduced by Mr. Proctor of Jackson, and recommends that it be not adopted by the Convention. Said resolution reads as follows:

Resolved, That on and after the passage of this resolution all requests for leave of absence shall be reduced to writing, and sent to the Secretary's desk by 12 o'clock of each day and passed upon by the Convention at that hour, and that no other requests for absence shall be considered at any other time.

The Committee amends resolution No. 141, introduced by Mr. Wilson of Clarke, by striking out the words "ten-thirty" and inserting in place thereof the word "eleven." The Committee reports favorably on the resolution as amended, and recommends that it, as amended, be adopted by the Convention. Said resolution as amended reads as follows:

Resolved, That sub-division 6, of rule 22, be amended so as to read as follows: 6. Call of the roll in alphabetical order for the introduction of resolutions, memorials, petitions and ordinances, and their proper reference. But if the roll call is not completed by eleven o'clock of any day, the Convention shall at that hour proceed with the next regular order of business.

The Committee herewith returns to the Convention the resolutions hereinabove referred to.

THE PRESIDENT—The first question will be what disposition will the Convention make of Resolution 136, reported adversely from the Committee on Rules.

MR. BOONE—I move that the resolution be adopted as reported by the Committee adversely.

THE PRESIDENT — The gentleman from Mobile moves that the resolution be adopted, the report of the Committee notwithstanding.

MR. BOONE—No, I stated it awkwardly, but I mean to say that the report of the Committee be adopted. That the report of the Committee be concurred in.

THE PRESIDENT—In the opinion of the Chair, the question will be on the adoption or the rejection of the resolution. The resolution is before the Convention for its consideration.

MR. BROOKS—Inasmuch as there are several subjects embraced in the report of the Committee, and the Convention is not familiar with all the subject matters embraced in those resolutions, or in this report, I move that the consideration of the report of the Committee be laid over until the session on tomorrow after the reading of the journal.

The Chair stated that motion to postpone consideration.

MR. OATES—I do not see what we will gain by that. We may as well consider the report now. Tomorrow afternoon it will consume just as much time, and probably more by delaying until then. If there are any complication of subjects, they can be separated and acted upon separately. It seems to me that if the delegate from Mobile would withdraw his motion, we could dispose of the matter very soon, and if he desires a division, we can have that.

MR. BROOKS—I submit one reason I had in making the motion was, if it goes over until tomorrow, it would appear in the stenographic report tomorrow morning, and every delegate would have an opportunity of reading the resolutions, and as it is now before the convention by a very cursory and rapid reading by the clerk, I think we will save time by considering it then, instead of now, because we will have the opportunity of reading them. As a matter of course, it will have to be divided. We can't take up several resolutions, bearing on different subjects, and act on them together.

MR. OATES—Suppose we have it read again.

MR. BROOKS—Before the motion is put, I ask for a reading of the report.

The report was again read.

THE PRESIDENT—The chair understands where several resolutions are sent up by the Committee on Rules, the question will be on each resolution in order, and not on them all together. So the chair stated to the convention that the question now will be as to what this convention will do with the resolution that has

been reported by the committee—No 136. The Secretary will read the resolution.

The resolution was again read.

MR. OATES—Does the committee report, as I understand it, adversely?

THE PRESIDENT—It has been reported adversely by the Committee on Rules.

MR. SMITH (Mobile)—As I understand it, the motion now is that the report of the committee be concurred in, so far as that resolution is concerned, and that it be not adopted. I merely wanted to state, the question has been before the Rules Committee several times, and they have considered it might arise, and frequently does arise, that a member, after are convention has met, obtains information in regard to sickness or other matters connected with his family or business engagements that would make it necessary for him ask for leave of absence, after the hour mentioned, or in some instances before that hour, and the committee did not, therefore, deem it wise to restrict the right of members to obtain leaves of absence to one particular hour, and for that reason they adversed the resolution.

MR. OATES—I would like to ask the delegate from Mobile if it is not a very easy matter, if too many leaves being granted, to object?

MR. SMITH (Mobile)—Yes.

THE PRESIDENT—In the opinion of the chair, the question is not on the adoption of the report of the committee. The question is on the adoption or rejection of the resolution adversely reported by the committee. The chair bears no motion—

MR. ESPY—Mr. Chairman, I move that the resolution be rejected.

MR. O'NEAL (Lauderdale)—I move that it be laid on the table.

MR. deGRAFFENREID.—As I understand it—

THE PRESIDENT—What is the motion of the gentleman from Henry?

MR. ESPY—That the resolution be rejected, which is equivalent to a concurrence in the adverse report.

MR. BEDDOW—I move that the resolution be laid on the table.

Seconded.

The motion to table was carried.

THE PRESIDENT—The question now is on the next resolution. The Secretary will read the resolution.

The resolution was read as set out in the report of the committee.

MR. WHITE — I move that the resolution be adopted as amended.

MR. PETTUS—I rise to a question of inquiry.

THE PRESIDENT—The gentleman will state the question of inquiry.

MR. PETTUS—Do I understand that is a resolution amending the rules? Under the rules, will that not have to lay on the table for one day?

THE PRESIDENT—The resolution was introduced and referred to the committee, and that would cover the rule requiring a day's notice, in the opinion of the chair.

THE PRESIDENT—The gentleman moves that the amendment of—

MR. LONG (Walker)—What is the amendment?

THE PRESIDENT—The chair stated it. The resolution provides that the roll call for the introduction of ordinances be suspended when the hour of 10:30 is reached, and the committee reports changing it to 11 o'clock.

The question being put upon the amendment, the same was adopted, and upon a further vote the resolution, as amended, was adopted.

MR. WHITE—I move that the rules be now suspended and that we return to the work we were engaged in when we adjourned last, namely, the consideration of the report of the Committee on Executive Department.

The motion to suspend the rules was carried, and upon a further vote, the motion that the convention proceed to the consideration of the report of the Committee on Executive Department was carried.

THE PRESIDENT—The question before the convention is upon the adoption of the amendment offered by the gentleman from Conecuh.

The amendment was read:

To amend Section 3 by striking out the words where they occur "on the first Monday in August" and inserting in lieu there-

of the following, "on Tuesday after the first Monday in November;" and to add to said Section 3, at the end, the following words, "The Legislature shall have the power to change the time of holding the election."

MR. BURNETT—My object, Mr. President, in offering that amendment was to save to the people the trouble and expense of holding an extra election, but as I am informed by the distinguished chairman of the Committee on the Legislative Department, that his committee has reported favorably on that subject, to hold the State and Federal elections at the same time, and as I think it more properly belongs to that committee, with the leave of the convention I will withdraw the amendment.

The leave was granted and the amendment withdrawn.

THE PRESIDENT—The question will be on the adoption of Section 3, as amended.

MR. SANFORD—Mr. President, I offer one other amendment to strike out. In Section 3, I notice that the term of the executive officers is fixed at four years.

THE PRESIDENT—Does the gentleman desire to propose an amendment?

MR. SANFORD—I move to amend Section 3—

THE PRESIDENT—The chair will ask that the gentleman put the amendment in writing. It is impossible for the convention to proceed orderly with these matters unless delegates reduce the amendments proposed to writing.

MR. ROGERS (Sumter)—While the gentleman is putting his amendment in writing, I ask leave to introduce an ordinance.

Leave was granted.

THE PRESIDENT—The chair will state to the delegates, that the convention will not be able to delay its business to enable gentlemen to draft amendments. This ordinance has been printed and laid over, and the public business cannot be suspended for that purpose.

Ordinance No. 370, by Mr. Rogers of Sumter:

Relates to the meeting of the Legislature.

Be it ordained by the people of Alabama, in convention assembled, That the Legislature of Alabama, shall meet only once in every four years, provided that the Governor of the State may assemble the Legislature in extra session whenever the peace or the interests of the State is menaced from any cause.

Referred to Committee on Legislative Department.

MR. PARKER—I ask unanimous consent to introduce an ordinance.

The leave was given.

Ordinance No. 371, by Mr. Parker:

Be it ordained by the people of Alabama, in convention assembled That Section 17 of Article VI of the present Constitution of this State be, and the same is hereby, amended so as to read as follows:

Vacancies in the offices of any of the Judges or Chancellors of this State shall be filled by appointment of the Governor, and such appointee shall hold his office until the next regular election for Judges or Chancellors, to be provided for by the Legislature, and in no case more than one year, and the person so elected shall hold for the unexpired term and until his successor is elected and qualified.

Referred to Committee on Judiciary.

THE PRESIDENT—The Secretary will read the amendment proposed by the gentleman from Montgomery.

The amendment was read as follows:

To amend section three "by striking out the words four years and the insertion therein of the words two years."

MR. SANFORD—I make that motion, because I do not know the necessity for changing it. The gentleman from Barbour a day or two since said that the idea of this convention was to make as few changes in the Constitution as it now exists as is practicable. Now the rule of all amendments is this: first to ascertain what is the evil to be amended, and second the means by which it shall be amended.

Now I do not know any evil that has ever come from having the elections of the Executive every two years. Has there been any corruption in two years, that would not exist in four? Will there be any electioneering in two years that won't be doubled in four? If you shall elect a man for four years who should be feeble, almost imbecile, and yet be guilty of no crime for which he can be removed, what relief would the people of Alabama have? It is a rule of Thomas Jefferson, the greatest popular leader our country has ever had, that the power of election should be of frequent occurrence; that this power, entrusted to any man to discharge a particular duty, should be returned to the power which conferred it, in order that the people might examine as to the faithfulness with which he has discharged his trust, and continue him, or discharge him.

Now I do not know anywhere where any evil has come from it. If a man shall electioneer—and by the way let me say this, that I do not know of but two instances in the history of Alabama where the Governor was elected to the United States Senate during his term. One was that of Clement C. Clay, Sr., and the other Gabriel Moore—and none other out of the eighteen or nineteen Governors we have had, has such an occurrence taken place. I can see no reason why, when most of the States of the Union have only two years, we should have four. In Virginia Patrick Henry was elected three terms. Nobody objected to his administration. In Tennessee John Sevier held the Governorship of that great commonwealth for twelve years, and no evil came to the State of Tennessee. In New York, DeWit Clinton held it for twenty-one years, and yet it was a glorious administration for that commonwealth. George Clinton, who ran against Madison for the Presidency, held it for eight years, and no harm befell New York. Joe Brown, one of the most popular men of the State of Georgia—but I do not hold him up to you gentleman as an exemplar of all political virtues—held it for three years, and would have held it for four but for the interference of John Sherman's march through the State.

So I say, no harm will come from having two terms. This article says that he cannot be a candidate for any office afterwards. You cannot prohibit his being a candidate for a Federal office. You cannot prohibit his being accepted by the Congress of the United States as a Representative, or as a Senator, for those bodies are the judges of the election and qualification of their own members, and if you put a prohibition in your Constitution, and the Legislature should elect a Senator what is your recourse? None. If you put it in your Constitution and the people of a district should elect him a representative, what can you do about it? Nothing. It is never wise to do an unnecessary act, else it may be necessary to do those things which you cannot accomplish. Therefore I say that I hope it will remain as it is. It does not disturb the people to have officers over the State elected every two years.

Again, Mr. President, the oftener the people recur to the principles of the Government under which they live, more certainly will those principles be honored and preserved. That is the maxim of the wisest political philosophy; that governments are preserved by recurring often to the principles of their foundation, and this is a matter of profound importance; there is no business of more importance than selecting their rulers and legislators, and the people will not feel it a burden to vote every two years, as they have done since 1819. So, it seems to me, it is unnecessary to make this change, and I hope therefore that this amendment will be adopted.

The Chair stated the question to be upon the adoption of the amendment proposed by Mr. Sanford of Montgomery.

MR. REESE—I move to table it.

The motion to table was seconded and carried.

The Chair stated the question recurred upon the adoption of section three as amended.

A reading was called for, and the section was read.

MR. O'REAR—I have an amendment.

The amendment was read as follows: Amend section three by striking out the figures 1902, and inserting in lieu thereof the figures 1904.

MR. JONES (Montgomery)—I move to lay that on the table.

Seconded and carried.

MR. DAVIS (DeKalb)—I have an amendment.

THE PRESIDENT—The amendment proposed by the gentleman relates to section five, which has not been reached.

MR. DAVIS (DeKalb)—I thought we were on section five.

THE PRESIDENT—We are on section three. The secretary will read section three as amended.

The section was read as follows: The Governor, Lieutenant Governor, Secretary of State, Treasurer, Auditor, Attorney General, Superintendent of Education and Commissioner of Agicul-tue and Industries shall be elected at the same time and place appointed for the election of members of the General Assembly in 1902, and every four years thereafter, by the qualified electors of the State.

MR. JONES (Bibb)—Mr. President I wish to add to that section, "and the Attorney General shall be a man learned in the law."

THE PRESIDENT—Will the gentleman send up the amendment?

MR. JONES (Bibb)—I wish to ask the Secretary to add that to the section.

THE PRESIDENT — The Chair cannot entertain amendments that are not in writing.

MR. COLEMAN (Greene)—I had an amendment written out, but it has been removed from my desk. I would like to state it.

THE PRESIDENT—The chair cannot entertain an amendment unless the gentleman reduces it to writing.

(Cries of "leave.")

MR. O'NEAL (Lauderdale)—I ask unanimous consent.

MR. COLEMAN (Greene)—They have been removed from my desk. I had them all written out.

THE PRESIDENT — Cannot the gentleman reduce the amendment to writing?

MR. COLEMAN (Greene)—It will take a few minutes, and it is a matter of calculation.

THE PRESIDENT—If the chair entertains amendments proposed by one delegate, it will be impossible to refuse the same privilege to all delegates, and the chair declines to entertain the amendment unless it is reduced to writing.

MR. ROGERS (Sumter)—I ask unanimous consent to hear the statement of the gentleman, not as an amendment, but as a statement.

MR. PROCTOR—I move that Section 3 be temporarily passed, and that we take up Section 4 until the gentleman has time to reduce the amendment to writing.

Dissent was audibly expressed to the proposition.

MR. WATTS—I ask unanimous consent to introduce a resolution, not to be acted upon, but to be referred.

Leave was given.

Resolution No. 144, by Mr. Watts:

Be it resolved, That the Committee on Executive Department report to this convention whether any separate ordinance or provision of the Constitution to be framed is necessary to provide for succession in the office of Governor until the Governor elected in 1902 goes into office.

Referred to Committee on Executive Department.

MR. COLEMAN (Greene)—I would like to make a statement before any motion is made to lay this amendment on the table.

THE PRESIDENT—The Chair will hear the gentleman's statement before any motion is entertained.

Amendment by Mr. Coleman of Greene — "Strike out the words 1902 and insert the words 1904."

MR. COLEMAN (Greene)—As I understand the purpose of the Convention is to have elections every four years, and I presume that the understanding is that will apply to all elections. There are some officers in the State who hold for four years, and some who hold for six years. The terms of those who hold for six years will not expire until 1904. So if you have these elections for terms beginning in December, 1902, and every four years thereafter, as to those officers who hold for six years, with terms terminating in 1904, what is to become of them? But, by having the election postponed until 1904, you equalize all these elections, and have a short term of two years to start with, reaching up to 1904, and after that time all elections, State and County, can be held every four years, and one election serves the whole purpose intended. Thereby we will attain the object intended, if having elections every four years, and I see no other way to avoid the difficulty that will arise by declaring these officers shall be elected in 1902 and every four years thereafter. That is the purpose of the amendment; that we may have elections every four years, and that they will apply to County as well as to State officers. What will be done with your County Treasurers who hold for six years, and with Clerks who hold for six years? Their terms of office terminate in 1904, and not in 1902.

MR. JONES (Montgomery)—I would like to ask my friend from Greene if his amendment were adopted, if the effect of it would not be to continue the officers now in office, whose terms will expire December, 1902, for two years? I did not catch the reading of it, and inquire for information.

MR. COLEMAN (Greene)—I wish to say that under the haste I was acting I do not know, but I wanted to get the idea before the convention. I had that drawn up at length on my desk but it is gone. We must provide in some way for a short term, in order to equalize all the offices in the State. There is no escape from that. So these officers, whose terms expire in 1902, should be elected for a short term, until 1904, and then the whole machinery of the Constitution moves off smooth and there will be no friction after that time.

MR. DENT—It seems to me that the question which is raised by the gentleman from Greene can be settled in the schedule of the Constitution, and I therefore move to lay his amendment on the table.

MR. FOSTER—I move as a substitute that section three be laid upon the table, to be taken up after the report of the Committee on Legislation.

THE PRESIDENT—The gentleman cannot substitute a motion to lay on the table. The question will be on the motion of the gentleman from Barbour to table the amendment offered by the gentleman from Greene.

MR. OATES—I know it is not debatable, but I have risen for the purpose of suggesting to the delegate from Barbour and others, that this is a proper matter for the Committee on Harmonies as the delegate from Montgomery called it, or the sandpapering committee, to reconcile just such things, and if it is adopted as temporary does not prevent it from being reconciled, and there is no use consuming time on it.

The vote being taken, a division was called for and the motion to table the amendment was carried.

MR. JONES (Bibb)—I wish to renew my amendment.

The amendment was read as follows:

Amend section three by adding immediately after the words Attorney General, the words "who shall be learned in the law."

THE PRESIDENT—The question is on the adoption of the amendment proposed by the gentleman from Bibb.

MR. JONES (Montgomery)—From the abstract proposition none of us dissent, but it does seem to me that it looks like a reflection on the people of Alabama to put in the Constitution an implication that they will elect an Attorney General who does not know any law.

Upon a vote being taken, the amendment was lost.

MR. HOWZE—I now move the adoption of section three, as amended, and on that section I call the previous question.

The call for the previous question was sustained, and upon a vote section three, as amended, was adopted.

Section four was read by the Secretary as follows:

Sec. 4. The returns of every election for Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education and Commissioner of Agriculture and Industries, shall be sealed up and transmitted by the returning officers to the seat of Government, and directed to the Speaker of the House of Representatives, who shall, during the first week of the session to which said returns shall be made, open and publish them in the presence of both Houses of the General Assembly in joint convention; but the Speaker's duty shall be purely ministerial, in this respect and any objection to any return on account of informality, defect or other cause, shall be decided by the Speaker, subject to the control of the majority of the joint convention. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more persons shall have an equal and the highest number of votes for the same office, the General Assembly, by joint vote, without delay, shall choose one of said persons for said

office. Contested elections for Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education, and Commissioner of Agriculture and Industries shall be determined by both Houses of the General Assembly, in such manner as may be prescribed by law.

MR. JONES—Mr. President, I would like to state that in the seventh line in the section the comma is after ministerial, when it should be after the word respect, but I suppose the Committee on Harmonics, as that is a musical term, will take the discord out, and, therefore, I do not move formally to amend it.

MR. GRAHAM (Talladega)—I have an amendment.

The amendment was read: Amend line one of Section 4, by adding the letter "s" to the word return, so that it will read returns.

THE PRESIDENT—The Secretary states that it is a mistake in the printed copy. Do you withdraw the amendment?

MR. GRAHAM (Talladega)—There is another matter in the amendment.

The amendment was read: Amend line two, Section 4, by striking out the word State, before the word Auditor and Treasurer.

MR. BROOKS—In order to have repetition of amendments of that kind, because we have had several, I move to amend the Article by striking out the word "State" wherever it appears in the Article before the words "Auditor" and "Treasurer."

THE PRESIDENT—Under the rule it cannot be done. The ordinance has to be considered section by section, and no section of the ordinance except section four is now open for amendment.

MR. JONES (Montgomery)—On behalf of the Committee, we accept the amendment, striking out the word "State" before "Auditor" and "Treasurer."

MR. WATTS—That ought to be amended also where it occurs in the third line from the end of the section.

MR. JONES (Montgomery)—The Committee accepts that also.

MR. GRAHAM (Talladega)—It also occurs in the 13th and 14th lines.

MR. FITTS—That has been accepted by the Committee.

The motion being to amend Section 4 by striking out the word State wherever it occurs before the words "Auditor" and "Treasurer" in Section 4, the motion was carried.

Amendment by Mr. Graham (Talladega): Amend line ten, Section 4, by substituting the word "any" for the word "either."

MR. JONES (Montgomery)—We accept that, Mr. President; it is a distinction without a difference.

MR. ROBINSON—I have an amendment.

The amendment was read as follows:

Amend Section 4, by inserting after the word Convention in the ninth line, the following: "But said objection shall be determined without debate or delay, and the power of said Convention shall be limited by that of the Speaker."

The Committee asks for the reading of the amendment, and it was again read.

MR. ROBINSON—Mr. President, that amendment is to define and limit the powers of the joint convention. That is that they shall decide the objection that is made before the speaker, without debate and without delay, and the power and duties of the Convention are limited by the power and duties of the Speaker. If that Section stands as it is, the Convention might decide that under it they had the power to go behind the returns, and had the power to declare the returns fraudulent, and they might have the power to debate it and to delay, and this simply proposes to define and limit the power of the joint Convention to that of the Speaker. That is, to examine the returns upon their face, and pass upon them, then and there, by a vote.

The Chair stated the question to be upon the adoption of the amendment proposed by the gentleman from Chambers. A division was called for, and by a vote of 55 ayes and 51 noes the amendment was adopted.

Mr. Fitts changed his vote from the negative to the affirmative for the purpose of moving a reconsideration.

MR. FITTS—I move to reconsider the vote by which that amendment was adopted, and I ask for another reading of the amendment.

The amendment was read again.

MR. LONG (Walker)—I make the point of order, that the gentleman cannot ask for a reconsideration of the vote, unless he voted for it.

THE PRESIDENT—The gentleman changed his vote from the negative to the affirmative for the purpose of moving a reconsideration.

MR. REESE—I make the point of order that a reconsideration cannot now be had.

THE PRESIDENT—The Chair was just referring to the rule. In the opinion of the Chair it would go over until tomorrow.

MR. deGRAFFENREID—I move a suspension of the rules, and that this motion to reconsider be now taken up, and disposed of by this body. I want to say, Mr. President, that we are on this Section now, and it seems to me more orderly to first get rid of this Section before we go to another, and for that reason I make the motion.

The motion to suspend the rules was carried, on a division, 86 ayes to 30 noes.

MR. FITTS—Now, Mr. President, I call up my motion to reconsider, and upon that I desire to be heard.

MR. LONG (Walker)—I make a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. LONG (Walker)—I make the point of order that the gentleman cannot change his vote from an aye to a negative vote, on a rising vote, and without an aye and nay vote.

MR. deGRAFFENREID—The gentleman's objection comes too late.

THE PRESIDENT—It seems to the Chair that the point is made too late, if there is merit in it at all. The question is on the motion of the gentleman from Tuscaloosa to reconsider the vote whereby this Convention adopted the amendment proposed by the gentleman from Chambers.

MR. FITTS—Now I ask that the amendment of the gentleman from Chambers be read.

The amendment was again read.

MR. FITTS—Mr. President, your Committee feels that it owes the House an apology for having had to consume this time, and ask for this reconsideration. We were talking at the time the motion was being put. We really ought to have called attention to what we think is a fatal error, and a fatal danger in the amendment of the distinguished gentleman from Chambers. You will notice that the Section makes it the duty of the Speaker, when he assembles the joint Convention, to count the vote, purely ministerial. Now, if you stand by the vote that you took a moment ago, and make the power of the joint Convention bound by the limitations which confine the Speaker, you make the power of the Convention purely ministerial, and no matter how grossly erroneous might be the contents of the envelopes when broken at the desk, palpably erroneous, they would simply have to be checked down, and called off, and the final result declared, no matter how erroneous it might appear.

MR. ROBINSON—May I ask the gentleman a question?

MR. FITTS—Certainly.

MR. ROBINSON—Isn't that all that the amendment proposes to do, and isn't that all that it does do?

MR. FITTS—That is the fact, that is exactly what the gentleman proposes, and the Committee respectfully thinks that would be a dangerous thing to do. While the duties of the Speaker ought to be purely ministerial, and while he ought to open those envelopes and count the result, there might possibly be occasions when that joint Convention should have some more power than the mere checking and chalking down of the returns. There are constantly arising, when the two houses meet to canvass the result, the most glaring errors. On one occasion, it is well known here, that the person who was running for Attorney General in this State was voted for for Treasurer, and the one that was running for Treasurer was voted for for Attorney General in several counties in the State. There ought to be a reserved power to correct errors that are apparent, to carry out the intention of the voters. For that reason the Committee think we had better pause, and consider the proposition as to whether or not the joint Convention when it assembles should be confined strictly to a mere counting and adding up of the returns, no matter how erroneous they may appear to be set down. It is for that reason we desire to call attention to it.

MR. PILLANS—May I ask the gentleman a question?

MR. FITTS—Certainly.

MR. PILLANS—Were the votes for a particular gentleman for Treasurer counted as though they had been cast for Attorney General on the occasion mentioned, and were the votes cast for the other gentleman for Attorney General counted as though they had been cast for Treasurer?

MR. FITTS—In that particular instance it made no difference and they were counted as they were actually opened there; counted erroneously, because it made no difference in the general result.

MR. PILLANS—May I ask another question?

MR. FITTS—Certainly.

MR. PILLANS—Is it the opinion of the Committee in such a case, where it would make a difference, that the vote ought to be reversed to meet the supposed intention of the voters?

MR. FITTS—I suppose there ought to be some power in the joint Convention, in as important an assembly as the Senate and

House assembled together, in a time of emergency, to carry out the real intention of the people.

MR. ROGERS (Sumter)—I rise in the interest of the amendment of the gentleman from Chambers. The question it seems to me before this body is this, whether the power of electing the officers of this State shall be with the people, or with the General Assembly of Alabama. It seems to me that is the only question under consideration. If we do not limit the powers of the General Assembly to that of a mere ministerial body, they can, whenever they wish to change the result, come up here and defeat or elect any one, before the General Assembly of the State of Alabama.

MR. JENKINS—I was on that Committee, and I hate very much to differ with the members of the Committee—

MR. JONES (Montgomery)—If the gentleman from Wilcox will pardon me I have a substitute that I think will meet the views of my friend from Chambers.

MR. JENKINS—I yield to the gentleman from Montgomery.

THE PRESIDENT—The question now is on the motion to reconsider. For the information of the Convention the Chair will direct the Secretary to read the proposed amendment.

The amendment was read.

MR. JENKINS—I yield to the gentleman for the reading of the substitute.

The substitute was read as follows:

"Amend Section 4, line nine, by adding after the words, "joint convention," the words, "whose functions shall be ministerial merely and confined to the opening and publishing of proper returns and declaring the result.

MR. CHAPMAN—Does that say "proper."

THE SECRETARY—Yes, sir.

MR. JENKINS—Mr. President, I really think all that ought to be stricken out, from the word Convention, because it is possible, as the gentleman from Sumter has said, for the General Assembly to come here and declare an irregularity of some sort in an election and defeat the will of the people. These questions of irregularity ought to be gone into by the Committees and examined by affidavits and evidence, before the election committees, and let the election committees report, as further provided in the article. I do not see any necessity for a change in the present Constitution on that particular point, and I really believe it would be a good

suggestion to strike out all the words between the first semi-colon in the seventh line, and the period after the word Convention, in the ninth line, and leave it exactly—

THE PRESIDENT—The Chair will remind the gentleman that the question before the house is the question of reconsideration.

MR. JENKINS—Well, I am speaking, Mr. President, if the Chair will pardon me, to that point.

THE PRESIDENT—The gentleman will proceed. The Chair was under a different impression. (Laughter.)

MR. JENKINS—I was merely suggesting to the Chair that I was going to offer an amendment to strike out, if the gentleman's amendment failed, and for that reason, I am opposed to reconsideration, because I think his amendment is a good one and covers the point; although I think that the whole clause ought to be stricken out. But I take it the gentleman from Chambers has covered the ground. Now this is a very serious proposition of allowing the legislature to pass upon these returns, other than as they are read from the Speaker's desk, because there is the evidence and that is the only evidence before that Convention and if you allow them to depart in the least from it, why then they decide what they think the people want, and not what as a matter of fact the people decided. I shall vote against a reconsideration.

MR. JONES (Montgomery)—I would like to inquire of my friend of Chambers if the substitute I proposed meets the objection he wished to obviate, in the language as it now stands?

MR. ROBINSON—I think that the amendment offered by myself is clearer and better and ought to prevail, and I do not want reconsideration.

MR. JONES (Montgomery)—Mr. President I regret very much, that as Chairman of the Committee, I have to appear on the floor so often. The original change reported by the Committee from the present Constitution, was to remove doubt and obscurity, as to the power of the Speaker of the House; about which a controversy has existed ever since the foundation of the United States, until the Tilden and Hayes election. There never has been an hour in the history of Alabama, when, if the General Assembly in joint convention refused to do its duty, and to count the votes and declare the result that the officer who was elected by the people had any constitutional remedy. Therefore, the Committee deemed it wise to insert that the Speaker's duties are ministerial merely. Speaking in behalf of the Committee, I desire to say we are thoroughly in accord with the purposes expressed by my friend from Chambers, for whose common sense and legal learning we have great respect; but I do submit that when the amendment

offered by the gentleman says that the power of the joint convention shall be the same as that of the Speaker, and the section reported by the Committee, above the place where the amendment comes in says the Speaker shall be controlled by the joint convention it certainly does not carry out what is in the brain of my friend from Chambers. The Speaker can't be subject to control of the joint convention and yet have equal powers. Now, what I understand he objects to, is that this joint convention might go behind the returns. As the section now reads in the Constitution, it is very clear that legally they could not do it, because it says contested elections shall be determined in such manner as shall be prescribed by law, by the two Houses. Take this case, Mr. President. I knew it to occur in this House. Two returns were sent in, contrary to law, at a date different from that prescribed by law. Suppose the election had turned upon whether those two returns were excluded or counted. I happened to be the occupant of the Chair at that time, and remarked that to avoid creating a precedent, or claim of power in the Speaker, to determine those questions, that the Speaker would take the advise of the joint convention. I remember among some very eminent members, the late Mr. Hewitt of Jefferson County, protested against the Speaker's surrendering the power that he claimed he had under the Constitution to decide for himself.

Now, when it comes to the returns, a Speaker may say this return is not genuine, I refuse to count it. Under the section as proposed, an appeal can be taken, and the joint convention can say you shall count it. It seems to me, Mr. President, that if the amendment, offered by me, adding that the powers of the joint convention shall be ministerial merely, and confined to the opening, publishing and declaring the result of proper returns, this is as good a safeguard as we can have and the only one that we put in the Constitution, unless we provide some appeal from the action of the joint convention.

MR. COBB—Will the gentleman allow me to ask a question?

MR. JONES—Certainly.

MR. COBB—What is the probable effect of that word proper you have got in there?

MR. JONES (Montgomery)—Ah, there is a great deal in that.

MR. COBB—That is why I ask. It gives that convention the same power they have under your original proposition.

MR. JONES (Montgomery)—Exactly. The words were used advisedly. Suppose the returns came up here, not signed by the proper officer. I have known a case where the returns were signed by three men, and it turned out that the Probate Judge and other officers were incompetent, and, therefore, they had se-

lected these gentlemen to serve as returning board in their stead, and they properly sent up the returns, but there was not a word on the face of those returns showing how these gentlemen came to be there, or why they had any more right than John Smith, or James Brown, or John Jones, or any other citizen of Alabama, to sign it. Now I say on its face that was not a proper return. It may be that a return comes here, Mr. President, that has been tampered with. There are a great many cases which the word proper would cover, which I cannot define just at this time, and which my friend from Macon, I doubt, cannot define. We have to trust somebody, and the amendment offered by me is in the direction of defining the power of the joint convention in furtherance of the idea of the gentleman from Chambers.

MR. CUNNINGHAM—I would like to ask the chairman of the committee a question.

MR. JONES—Certainly.

MR. CUNNINGHAM—After the word defect, in the eighth line, what is meant by the phrase "or other cause?" What is the limitation of that? How far does that go back?

MR. JONES—Well the cause that was in the mind of the draftsman of that, was where the return had been tampered with; for instance, I remember in one case, a member said it is a matter of no moment in the particular case, but those figures have been tampered with, and if you put your magnifying glass there you will see it. Well, it might be material—

MR. CUNNINGHAM--I will ask the chairman of the committee, suppose that a member of that joint convention should be on the opposite party to the supposed candidate for State offices that have been elected and he should raise the question of the honesty of the election in any given county; does the words "other causes" embrace that proposition?

MR. JONES—I think it would, to be frank, it might give excuse for so doing without the amendment which I offered. It had not occurred to me, but I think it might be tortured into that.

MR. CUNNINGHAM—Then the joint convention, as I understand it, would really act as a body before whom one could decide these things of their own accord?

MR. JONES—Not under the Constitution, because right below it the section declares how contests of elections shall be determined. The joint convention is a tribunal which must have some power to declare the result, reject improper returns, etc., and I know of no way of preventing them under the guise of counting and publishing, from contesting, if the language here does not prevent it.

MR. LOWE—It seems to me the original proposition of the committee and the amendment, will tend to render this entire section incongruous and irreconciliable. I believe the provision of the old Constitution is amply sufficient. However, I would not be prepared now to stickle as to the terms and to consume the time of the Convention in debating as to phraseology, but I should dislike to see engrafted in a section of the Constitution as important as that we are now considering, a proposition that would render the section totally irreconcilable with itself. The proposition that now comes into this phraseology is making the Speaker a ministerial officer and making the two houses when assembled purely ministerial. That is the tendency of the amendment. But the amendment does not reach the section of the Constitution beginning with line 13, the last clause of this section. Beginning at the thirteenth line of this Section 4, it reads: "Contested elections for Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, Superintendent of Education, Commissioner of Agriculture and Industries, shall be determined by both houses of the General Assembly, in such manner as may be prescribed by law." In such manner as who may prescribe? There would be but one law and that would be that the power was vested in the two houses assembled to count the vote.

Now, will you say, in Section 9, that the power of the two houses in counting the vote shall be purely ministerial and then say, in line 13 of this section that the power of the two houses to determine contests arising shall be absolute? Let it mean one thing or the other. Let us strike out one provision or the other. That matter is so plain to my mind merely as a matter of truth that a Constitution should not contain clauses inconsistent with themselves, that I hardly think it necessary to debate it. That the simple statement of the proposition is sufficient, and I, therefore, move that this Section 4 be re-referred to the committee.

THE PRESIDENT—The question right now is on a motion to reconsider.

MR. LOWE (Jefferson)—I thought the motion to reconsider had prevailed.

THE PRESIDENT—It has not been carried. It is under debate.

MR. ROBINSON—The powers of the joint convention under this section, as prepared and reported by the Executive Committee, are that it shall consider objections made. That is the question. Now, in considering that question, the sole purpose of that amendment is that it shall be submitted without delay, then and there, without debate, simply to examine the face of the returns and see what they show and that the whole power of that joint convention is limited to the power of the Speaker. It it as plain as it can be. The General Assembly has the power to decide contests for

these State offices. They may decide then and there that they will decide that contest. What prevents them? They may declare, and that objection might go, that they would desire to go behind the returns made by the State officers in several of the counties; that convention might declare that they had a right to go behind those returns and consider all questions that affect the election of a particular officer. Some gentleman might object because he says the returns from a certain county are fraudulent. He might make the objection on the ground. Then that joint convention, construing that power without limitation offered by me, would go into an investigation of that question and inquire into the frauds and determine the question and set aside the prima facie case made by the returns of the officers.

Now, I cannot see why this ought to be reconsidered. That amendment is as plain and as unambiguous as it can be. It limits the powers of the joint convention to those possessed by the Speaker, simply to examine the returns upon the face of them, and to determine that question without delay or debate, just as the Speaker would do it. I cannot see that there can be any objection to that unless the gentlemen of this convention desire to give the joint convention the power to go behind the returns and take charge of that question and when they take charge for one purpose they take charge of it for all.

The delegate from Tuscaloosa desires to correct errors! When you open the door to correct errors, where are you going to shut it? When you depart from an inspection of those returns as they appear upon the face, you open the door for the joint convention to do whatever they may desire to do, so far as that particular question is concerned. That is unwise and it will be productive of great evil to give that convention any powers except to examine the face of the returns and receive or reject them.

MR. FITTS—Your committee are not at all partisan in this matter and have no desire to fix this in any way but as the convention wants it fixed. We thought the amendment offered by the delegate from Chambers as far-reaching, and in that we were right. We thought we ought to ask this reconsideration because we failed to make any statement to call your attention to it just then. We are perfectly willing to do the work over again and fix it any way the convention wants it done. We are the servants of this convention. We want to understand the convention and to have the convention understand us. It does seem to us that if you write down in this particular section on page 5 that the duties of the Speaker are purely ministerial and then provide that the duties of the joint convention, these two Houses, are purely ministerial, that that sets a hard and fast rule.

MR. ROBINSON—Will the gentleman permit an interruption?

MR. FITTS—Certainly.

MR. ROBINSON—I would like to ask him to explain the difference between that and my measure.

MR. FITTS—I will. Then the further proposition when you add to that that the duties of the entire Assembly, of the two Houses are purely ministerial, that is a hard and fast rule that they cannot get away from and then you go on to the next page and you show that it was intended that the two Houses should have some power and you say if there is a tie they shall decide it and if there is a contest for one of the State offices, it cannot mean anything but a contest, that it shall be settled according to such views as they may have. If, therefore, you fix the first half of this section according to the amendment submitted by the gentleman from Chambers, it is directly contrary to the meaning and intention of the latter part of it reported by your committee. If the amendment means anything it means that in no event shall the joint convention of the two Houses have any power.

As I say, the committee is without any desire to be partisan. They simply want to get before the House the far-reaching effect of the amendment offered by the gentleman and after the convention understands and determines it, if it is the desire that it should be sent back to the committee so as to make it harmonize, the committee will attend to it to the best of its ability.

MR. BROWNE—I do not think the section as amended by the gentleman from Chambers is subject to the objection made by the gentleman from Jefferson and as conceded by the gentlemen of the committee. The first part of the section says it shall be the duty of the Speaker, to open and publish the returns in the presence of both Houses of the General Assembly in joint convention—that is the duty of the Speaker—and the joint convention is to canvass the returns and declare the result where there is no contest. Then the latter part of Section 4 provides that where there is a contest it shall be decided by both Houses of the General Assembly, but not in joint convention, but by both Houses in General Assembly in such manner as may be prescribed by law, presupposing that the General Assembly will enact some law regulating contests to be had and decided by the General Assembly. And it does not seem to me that there would be any conflict in the two provisions in the section as amended either the amendment proposed by the gentleman from Chambers or the substitute by the Chairman of the committee.

A vote being taken on the motion to reconsider on division resulted 66 yeas and 56 nays.

So the motion to reconsider was carried.

MR. ROGERS (Sumter)—I offer a resolution.

The resolution was read as follows:

Resolved that it is the sense of the convention that Section 4 of the ordinance to create and define the executive Department is ambiguous and should be recommitted to the Committee on Revision.

MR. ROGERS—I move to suspend the rules that that resolution may be put upon its passage.

THE PRESIDENT—The Chair is of the opinion that a motion to recommit is in order with a suspension of the rules.

MR. JONES—The committee is perfectly willing to have this matter recommitted so as to conform to the desire of the House, but we are unwilling, unless the House compels us, to take it back now when we cannot understand what the wishes and will of the House are. And, if my friend from Chambers will permit me one minute, I think I can convince him we are anxious to do what he says.

THE PRESIDENT—The question is on the amendment of the delegate from Chambers.

MR. JONES (Montgomery)—I thought it was on the motion to recommit.

THE PRESIDENT—The gentleman is correct. The question was on the amendment of the delegate from Chambers and thereupon the gentleman from Sumter moved to recommit, which has precedence of a motion to amend, and the question now is on the motion to recommit, and the chair recognizes the gentleman from Montgomery, and the reason the chair asked the gentleman to suspend was to obtain order so that the delegates could hear what committee desires to make an explanation.

MR. JONES (Montgomery)—I want to call the attention of my friend from Chambers to one fact. The language is that the Speaker shall be under the control of the joint convention, and the amendment of the delegate from Chambers says that the joint convention shall not have any more power than the Speaker. One cannot be under the control of the other, if each has equal power. I think the gentleman overlooked that in the hurry. If the House passes some resolution declaring what is the sense of the convention as to the power of the joint convention when it comes to count the vote, and declare what it wants more exactly, the committee will be glad to take the matter up and report on it; but in the absence of some such declaration, I move to postpone the motion to recommit indefinitely.

MR. REESE—I rise to a point of order.

THE PRESIDENT—The chair would rule that a motion to indefinitely postpone would not apply. The motion to recommit has precedence.

MR. REESE—And on the motion to recommit, I move the previous question.

MR. ROGERS (Sumter)—I would ask the gentleman to withdraw that just a moment. It is clear that whether this section is ambiguous or not, it is ambiguous in the minds of a great many of us, and in order to give the Committee on Executive Department a chance to make it clear, I move for the recommitment, and only for that purpose.

THE PRESIDENT—And upon the motion, the gentleman from Dallas demands the previous question, and the question is, shall the main question now be put?

MR. JONES (Montgomery)—Who is entitled to the close on that? Is it the chairman of the committee who has charge of the matter, or the gentleman who makes the motion to recommit?

THE PRESIDENT—It seems to the chair that the gentleman from Sumter, as it is his motion, would be entitled to the close.

MR. JONES—If the gentleman of the committee—

THE PRESIDENT—Does the gentleman from Dallas withdraw his motion for the previous question? The chairman of the committee desires to make an explanation.

MR. JONES (Montgomery)—I simply want to make a request to find out what is wanted.

MR. REESE—I decline to withdraw the motion for the previous question.

A vote being taken, the main question was ordered. The vote on division being 67 yeas and 38 nays.

THE PRESIDENT—The question is on the motion of the delegate from Sumter to recommit this section to the Committee on the Executive Department.

A vote being taken, the motion to recommit was carried.

MR. JONES (Montgomery)—Now, if I am in order, I wish to state in behalf of the committee, that we shall be very much obliged to our friend from Sumter who says the ordinance is obscure, if he will kindly write out what he thinks will remove the obscurity.

Mr. Reese here took the chair as President pro tem.

THE PRESIDENT PRO TEM.—The Secretary will read the next section.

Section 5 was read as follows:

Section 5. The Governor, Lieutenant-Governor, Secretary of State, State Treasurer, Attorney-General, State Auditor, Superintendent of Education and Commissioner of Agriculture and Industries, shall hold their respective offices for the term of four years from the first day of December of the year in which they shall have been elected, and until their successors shall be elected and qualified, and after the first election under this Constitution neither of them shall be eligible as his own successor; and the Governor shall not be eligible to election to any office under this State within one year after the expiration of his term; and his acceptance of the office of Governor shall be a pledge to the people not to accept an election or appointment to the Senate of the United States at any time during his term, or within one year thereafter.

MR. JONES (Montgomery)—There is an amendment by the Committee which the Clerk will read, please.

The amendment was read as follows: Amend by inserting the words "elected in the year 1902" between the words "Agriculture and Industries," and "shall."

THE PRESIDENT PRO TEM.—The amendment of the Committee is before the House.

MR. WALKER—I offer to amend the amendment of the Committee by adding after the word "1902" the following, "and each fourth year thereafter."

THE PRESIDENT PRO TEM—The question before the House is on the amendment of the gentleman from Madison to the amendment of the Committee.

MR. WALKER—The amendment offered by the Committee simply makes provisions as to the terms of office of those elected in 1902. The amendment offered by myself clears away the ambiguity, and makes the terms apply not only to those elected at that time but to the officers elected thereafter as well.

MR. JONES (Montgomery)—We are anxious to accept anything coming from so eminent a source, but if the officers hold for four years after that time, how can there be any ambiguity about it?

THE PRESIDENT PRO TEM—The question is on the amendment of the delegate from Madison.

MR. O'NEAL—I ask that the Section as amended by both amendments be read.

The Section as it would be with both amendments was read as follows:

Sec. 5. The Governor, Lieutenant-Governor, Secretary of State, State Treasurer, Attorney General, State Auditor, Commissioner of Agriculture and Industries shall hold elected in the year 1902, and every fourth year thereafter, their respective offices for the term of four years from the first day of December of the year in which they shall have been elected, and until their successors shall be elected and qualified, and after the first election under this Constitution neither of them shall be eligible as his own successor, and the Governor shall not be eligible to election to any office under this State within one year after the expiration of his term; and his acceptance of the office of Governor shall be a pledge to the people not to accept an election or appointment to the Senate of the United States at any time during his term or within one year thereafter.

MR. LOMAX—The remarks of the Chairman of the Committee show that the amendment offered by the gentleman from Madison is entirely unnecessary and I therefore move to lay that amendment on the table.

The motion was carried.

MR. GREER (Perry)—As a matter of euphony, I move to strike out the word "State" before the words "Auditor and Treasurer."

MR. PETTUS—I rise to a point of order. The amendment by the Committee is the question before the Convention.

MR. JONES (Montgomery)—I submit when a Committee has reported an ordinance it has a right to amend its own ordinance, just like one who makes a motion has the right to amend it.

THE PRESIDENT PRO TEM—That must be upon the theory of unanimous consent. If there is no objection the report can be amended as asked by the Committee.

There was no objection.

MR. deGRAFFENREID—I move to amend Section 5 by striking therefrom all of the section following the words "expiration of his term" in the seventh line.

The effect of that amendment if adopted by this convention would be to strike from Section 5 so much of the section which reads as follows: "and his acceptance of the office of Governor shall be a pledge to the people not to accept an election or appointment to the Senate of the United States at any time during his term, or within one year thereafter." The section above that

provides that the Governor shall not be eligible to any office within the gift of the people, that is, shall not be eligible to any State office within one year after the expiration of his term. My objection to this latter clause which I move to strike from the section, is this: We are adopting a Constitution for a State. We should not put into that Constitution anything that is not law because a Constitution is the fundamental law of the State and we should not attempt to do anything, we should not attempt to put anything in there that we have not the power to enforce. The expressions used by the committee in this article disclose to this convention the fact that we are attempting by this clause to do something that we have no legal power to do and to require the Governor to pledge himself not to do something which if he does, for the doing of which we can inflict no penalty. We say this acceptance of the office will be a pledge to the people not to accept an election or appointment as a United States Senator at any time during his term or one year thereafter. But suppose he were to accept such a position, would not we be helpless? What could we do? A legislative body unless there are rules to the contrary is a law unto itself. It is omnipotent in passing on the qualifications of its own members. And so when a man who has been Governor of a State received in a legal form the office of United States Senator, there would be nothing on the Senate to prohibit them from adopting him into their body as a member thereof.

MR. WHITE—It is not his acceptance of the office but his trying to get office that we are endeavoring to get rid of.

MR. deGRAFFENREID—Yes, I see the evil and I think so far as the convention is able legally to do it, we ought to withhold from the Governor any temptation to improperly use the power the law places in his hand. But the objection is we are undertaking to do that in an instrument that purports to be a legal instrument that purports to speak only the law and we are thereby attempting to do something that if it is disobeyed there is no power to enforce a penalty.

MR. BURNETT—Suppose we should engraft this in the Constitution and the Legislature should elect a Governor to the United States Senate during his term or within one year thereafter, do you think that the Senate of the United States would decline to allow him to take his seat?

MR. deGRAFFENREID—I will answer your question by referring to something that happened in the history of this Government. When John Randolph of Virginia first appeared before the House of Representatives and asked to be sworn in as a member of that House, he was under the age of 25 years, and some man arose and challenged his right to the seat.

MR. BURNETT—Let me ask you another question.

MR. deGRAFFENREID—I am answering your question now. Some man arose and challenged his right to take his seat and asked him if he was of age to sit in that body and he replied: "Ask my constituents," and they seated him regardless of the disability.

MR. DENT—Can I ask the gentleman from Hale a question?

MR. deGRAFFENREID— You can all ask if you will just do it one at a time.

THE PRESIDENT (who had resumed his seat some time during Mr. deGraffenreid's remarks)—To which does the gentleman from Hale desire to respond?

MR. deGRAFFENREID—The delegate Mr. Burnett was the first one who interrogated me.

MR. BURNETT—The Constitution didn't say that John Randolph was of age, did it?

MR. deGRAFFENREID—No, sir; but if it had, it was admitted he was under 25 years of age. I simply alluded to that to show that it would be entirely as to what the members of the Senate or House should determine when the question arose.

MR. DENT—I think there is a mistake in the historical statement. My understanding was that Randolph was not 25 when he was elected but he was 25 when he presented himself for a seat.

MR. deGRAFFENREID—I don't remember exactly about that. But I happened to be reading on the question of suffrage yesterday on the qualifications of members of the House, and saw that.

MR. HINSON—Does not the United States Constitution require that a member of Congress be 25 years of age?

MR. deGRAFFENREID—Yes.

MR. HINSON—Then does not the United States Constitution contain something that cannot be enforced?

MR. deGRAFFENREID—I said unless there was something in the law to the contrary which controlled the body, the body was a law unto itself. I have never investigated the question of whether the Senate could admit a man under 25. The point I am endeavoring to make is that each deliberative body is a law unto itself. And by the Constitution is to be the sole judge of the qualifications of its members.

MR. CHAPMAN—Would it not be entirely proper for this convention to make a provision that the General Assembly should not elect as Senator any man who had been Governor within one year of the time of this election as Senator?

MR. deGRAFFENREID—That is not the question to which I am speaking, and I have never investigated it, but if the Legislature were to elect a Senator contrary to this provision and the man appeared at the bar of the Senate and offered to be sworn in as a member of that body, it would not be the courts of Alabama, but the members of the United States Senate, who would determine whether or not he was entitled to a seat in the body.

MR. WHITE—Has not the Senate of the United States power to seat a man that the Legislature did not elect?

MR. deGRAFFENREID—They are the judges of the qualifications of their members in that regard.

As I was going to say, I am in sympathy with the purpose of this Section 5, and believe that as far as possible, we should remove the temptation from the Governor of our State to use his office for political purposes and for his own political advancement.

If, Mr. President, all of our Governors were like the man whose remains were carried from this Capitol today, or, if they were all like the man who has succeeded him, there would be no reason for such a provision as contempated in Section 5, but our history and the experience of our people indicate to the contrary. My objection to this is purely technical that we should not put in the Constitution as a part of the fundamental law anything that is not law and that cannot be enforced as law by the courts of this State.

MR. LONG (Walker)—I have a substitute for the amendment offered by the gentleman from Hale.

The substitute was read as follows: "Amend Section 5 by adding the words "or appointment" after the word "election" in the sixth line, and further by striking out all the words after the word "term" in the seventh line.

MR. LONG (Walker)—I am not posted in natural history, but it seems to me that this section is an Armadillo, one of those ambiguous animals that, we all used to hear so much about. With my amendment adopted, this section would read, beginning in the sixth line, "and the Governor shall not be eligible to election or appointment to any office under this State within one year after the expiration of his term." Then we go on further in this and put him under pledge. It seems to me that is a very ambiguous animal.

MR. BROOKS—I had prepared an amendment to strike out the last clause of Section 5, but the amendment of the delegate from Hale entirely covers that. I desire to speak to that amendment. I favor the general purpose of Section 5, but the last clause appears to me to contain a provision which is inappropriate in a Constitution. I am free to confess my unfamiliarity with the

great mass of our different State Constitutions, but my limited observation leads me to believe that such a provision of this is, to say the least of it, unique in constitutional structure. As has been well said by the gentleman from Hale, a Constitution is the organic law, the fundamental law of the land, designed to operate upon the people either through some self-enforcing power of its own or through some provision or legislative enactment. But I submit that this last clause is not susceptible to enforcement by either of those means. The evident purpose of it is to make the Governor of the State ineligible to the office of United States Senator at any time during his term or within one year thereafter. But why does it not express that ineligibility in direct and express terms. Why does it not say clearly and distinctly that he shall not be eligible to the office of Senator and that he shall not be eligible within one year after his term to any office in the State. It is probable that the committee saw some obstacle in the way in the Federal Constitution or laws respecting the qualifications of Senators. I am not prepared to say that such consideration would impose upon them any insuperable difficulty, but the fact remains that we have in this provision a proposition to make the Governor ineligible by a mere pledge to the people. How do they propose to do it? Simply by tacking a moral sanction to the Governors accepting the office in the way of a pledge to the people. That is the proposition. This is a sort of inchoate or intended or suggested prohibition upon the right of the Governor to accept an election to the United States Senate while he is Governor or within twelve months thereafter. Now, I submit, as a rule, moral propositions don't generally enforce themselves, and there is no way by any legal sanction in any power of enforcement in the Constitution or by any legislative enactment to enforce this moral sanction. Therefore, it seems to me it is a mere brutum fulmen. It cannot carry out itself, and it cannot be enforced by any law, and, therefore, I favor the amendment of the delegate from Hale to strike that last clause out.

MR. CHAPMAN—I have an amendment to the amendment of the delegate from Walker.

THE PRESIDENT—The chair would suggest to the gentleman that an amendment to an amendment is already pending, and an additional amendment would not be in order at this time.

MR. SANFORD—I move that we adjourn.

MR. JONES—And I move that when we do adjourn it be to 3 o'clock tomorrow.

THE PRESIDENT—A resolution has already been passed adjourning till two thirty tomorrow and without a reconsideration it would not be in order to change that time.

MR. JONES (Montgomery)—Of course, I yield to the Chair, but I do so unwillingly. I think it is always competent when a motion to adjourn is made for the house to say to what time it will adjourn.

THE PRESIDENT—That question has already been determined by the house by passing a resolution that when it does adjourn it will adjourn until 2:30 tomorrow, and unless there is a reconsideration, it would not be in order to change that time.

A vote being taken on the motion to adjourn it was lost.

THE PRESIDENT—The question is now on the amendment of the delegate from Walker.

The section as it would be if amended according to this amendment was read and a vote being taken the amendment was lost, the division resulting 36 yeas and 60 nays. So the substitute was lost.

MR. GREER (Calhoun)—I move to amend by striking out after the word "qualified" in the fifth line, the balance of said section. I do that for the sole purpose of allowing the people of Alabama to take care of their own officers.

THE PRESIDENT—The question before the House is the amendment offered by the gentleman from Hale to Section 5 as reported by the Committee. Does the gentleman desire to amend the amendment of the gentleman from Hale?

MR. GREER—Yes. It seems to me it would be unwise for this Convention to say that the people of Alabama should or should not choose their officers from any sphere in life. I repeat, the object of my substitute or amendment is solely to allow any man in the State of Alabama to aspire to any office within the gift of the people at any time and to allow the people of Alabama to pass upon his qualifications to said office. I do not remember within my brief knowledge of the history of the State of Alabama where any gentleman has prostituted the office in trying to get to the United States Senate. But if he has, the people themselves have passed upon that matter and doubtless have passed on it wisely. If they have been wise enough in the past to pass upon the qualifications of one in the Governor's chair seeking the position of United States Senator, they will continue to be as wise in the future. The adoption of this section reported by the Committee may prevent at some time in the future the people of Alabama from getting the very best man that resides within her borders as a representative in the United States Senate. It may prevent them from getting the best they have in the State as officers to succeed themselves and for these reasons, briefly stated, I am in favor of striking out all of that part of the section which says a man shall or shall not be eligible to re-election or shall or

shall not be a candidate for office within a certain time after he holds a certain office. He seems to me mere child's play. And for that reason I think the Convention should allow the people of Alabama to pass upon the question.

MR. WHITE—I do not suppose any of us feel that a Governor will ever be elected to the United States Senate. That has been tried. But the trouble is in convincing gentlemen that they can't be elected. We are told that this provision is not enforcible because the Senate of the United States can disregard this provision and can seat a member notwithstanding this provision in our Constitution. We might, with equal force say that the Senate of the United States can seat a man who has been elected by bribery, and therefore you need not pass any laws against bribery. You might as well say because the Senate of the United States in the exercise of its power can seat a man receiving a minority of the votes of the legislature, that we need not insist upon a majority vote for him. However, this may act or whatever influence it may have upon the Senate of the United States what we are to look at is the influence it will have upon the Governor in determining whether he will be a candidate in violation of his oath when he takes an oath to support the Constitution of the State with this pledge in it. Some man might desire a seat bad enough in the Senate to attempt it, but no man who would do that would command enough respect by the people of Alabama to even be considered for the place. Therefore, I am in favor of the provision as contained in the Committee's report. I am opposed to the amendment offered by the delegate from Calhoun and also the amendment offered by the delegate from Hale. I need not appeal to you and point you to our experience in the past. You know what that is as well as I do, and I say, Mr. President and gentlemen of the Convention, if we can accomplish that which we intended by this provision we will have accomplished a great deal for the people of Alabama. They tell us that we are not concerned about a man's ambition. That is true possibly when he is not our servant, but when we installed him in the gubernatorial office and entrust to him the welfare of the State, we do have an interest in his ambition.

MR. SANFORD—May I ask the gentleman a question?

MR. WHITE—Certainly.

MR. SANFORD—Is it not a fact that this is a limitation upon the rights of the people to vote for any man they please for any office, and, therefore, it is not a disfranchisement of the people so far as that is concerned?

MR. WHITE—No, sir. If I understand it, it is a bridle to the ambitions of a man who wants to make the gubernatorial chair a stepping stone to the Senate, that and nothing else, and we should

not place in the hands of the Chief Executive of the State a wonderful political influence that he could not wield but for the position he holds. I hope both of these amendments will be voted down.

MR. OATES—I am fortunately and unfortunately in the category alluded to by my distinguished friend, the delegate from Jefferson. I am one of the ex-Governors who tried to be United States Senator and failed to get there, and I believe any other Governor who has a thousand appointments to make a year will fail to get there. (Laughter.)

MR. WHITE—Will the delegate from Montgomery allow me a question?

MR. OATES—Certainly.

MR. WHITE—Will he fail to try to get there?

MR. OATES—I don't know. As to myself, I never expect to be in that category, and when I got knocked out I never cried about it. I wanted to go but the Legislature didn't agree with me and I remained at home and consoled myself with the fact that I was beaten by a very good and meritorious man. Now the amendments which are pending I quite agree with my friend from Jefferson in opposing. I oppose the striking out of the disqualification of the Governor and other officers to succeed themselves. I differ with him decidedly on that, but I do agree with the delegate from Hale, if I understand his motion, I did not hear it distinctly. I understand it to be to strike out beginning in the seventh line the words "and his acceptance of the office of Governor shall be a pledge to the people not to accept an election or appointment to the Senate of the United States at any time during his term or within one year thereafter." I am in favor of the motion to strike that out because these words are simply a political declaration here in the Constitution. I am decidedly in favor of denying the Governor the right to succeed himself or to be a candidate for any other office. He is not likely to be a candidate for any office except Senator during his term or for a year after its expiration. And why do I take that position? I agree with the Committee in their purpose but these words, as I said, are only a political declaration and if a man could succeed in being elected while being Governor or within a year thereafter as Senator, the Senator of the United States would have to pass on his qualifications and that body sometimes makes pretty erroneous decisions and this part of this Section would not operate on that body to his exclusion, in my opinion, but when the Constitution of his State disqualifies him I think it would be a splendid objection which a decided majority of the Senate would not overcome or disregard.

MR. JONES (Montgomery)—May I interrupt the gentleman?

MR. OATES—Certainly.

MR. JONES (Montgomery)—Do you remember the case of Judge Thurman of Ohio, who, while Chief Justice of that State, was elected to the Senate with the provision in their law which said he would not be eligible to any office during his term and the Senate said that could not possibly apply to a Senator?

MR. OATES—I do not pretend to say that they have always made correct decisions. I think they have made some very erroneous ones, and if you take the opinion of our late Chief Justice Stone, whose opinions I once heard characterized by an eminent lawyer in very fitting language as being lucidity crystalized —he was certainly of the opinion that he was not eligible to any other office during the entire term for which he was elected. While, as I say, the Senate may disregard this declaration, they may possibly go so far as to seat a man who was elected even when his Constitution denied his eligibility, I do not believe they would, and this is not the test by which the merits of this provision should be tried. Now, you know a Senator cannot be elected except by a vote of the members of the Legislature, and when you have that in your Constitution are your members going to perjure themselves to elect a man. He would have a wonderful hold on them if they did. If a man is not eligible by the Constitution which everyone of those legislators has sworn to support, how could they forswear themselves? I have too much confidence in any Legislature that the people elect to believe they would do so. So it is not what the Senate of the United States may decide. If a man who held the office of Governor saw proper to make himself a candidate and to try to obtain this high honor he would meet an insuperable difficulty right there for while possibly he might find a few members of the Legislature who were so enthused as friends of his to disregard that oath, how would he make it with a majority. He never could do it. And any Governor who is thus rendered ineligible will never during the history of the State of Alabama, while that provision stands in the Constitution, be elected to the Senate or any other. The limitation will be observed certainly by those who may have sworn to support the Constitution.

So I am highly in favor of the amendment of the delegate from Hale, because those words have no part, office or effect, and are more of a political declaration and are not enforcible. No Governor could be subjected to any penalty for disregarding them, and I think those words have no good office in the Constitution and can well be dispensed with. But the other provision about the Governor and other officers I am heartily in accord with and I believe if we adopt the Section with just that stricken out we shall have no difficulty and we will meet the wishes of the people.

MR. PETTUS—Is there any doubt about the office of United States Senator being an office of this State within the purview of the seventh line.

MR. OATES—I will answer the delegate from Limestone who is always bright and pertinent in his inquiries. That even aside from that, neither United States Senators nor Representatives in Congress are Federal officers. They are State officers. They have to get their commissions from the State of Alabama and they are State officers. While the functions they perform are directed largely by the United States Constitution it is an erroneous idea that they are Federal officers. They perform many Federal functions, but they are State officers and obtain their commissions from the State of Alabama. And if a United States Senator or Representative resigns, to whom does he tender his resignation? Not to the President or the Senate, but to the Governor of Alabama. They are State officers, and I repeat that with the motion of the delegate from Hale adopted striking out these words the Section then adopted will speak volumes in favor of their wisdom.

For without making any invidious distinctions or calling any names, we are all human beings, and more or less ambitious. It is commendible in any man under our form of Government to be ambitious in a commendible in any way. But unfortunately some men in some positions will endeavor to gratify their ambition by a resort to improper means. And I think as the Governor has the distribution of patronage,—and I am glad this Constitution makes him ineligible, because that will naturally tend to make him an impartial officer, and where he has appointments to make if he is a sensible man, a man who has sense to be Governor, all that he can accomplish and the greatest honor he can get by appointment is to make such excellent appointments that they will be approved by the people. It is a fact that some man will naturally look to their future when in the office of Governor in their appointments, some more and some less in regard to the effect it may have upon their political future. Of course there are differences in this regard. Some men are more guarded in observing their oaths in making their appointments. Some consider that their power of appointment is intended for the benefit of the people and in making their appointments they first give attention to their own preferences as to qualifications and then appoint the man who will discharge the duties of the office as they believe to the very best of his ability. Then there are others, I am persuaded, who will be influenced in making their appointments by the amount of future political services that the appointee can render in the gratification of his ambition and that is the great evil which is attempted to be remedied by this provision and I think it is a good provision.

MR. BOONE—I move to lay the amendment of the delegate from Calhoun on the table.

MR. GREER (Calhoun)—And on that I demand the yeas and nays.

THE PRESIDENT—The question is, is the call for the yeas and nays sustained?

The call is not sustained.

A vote being taken the motion to table was carried.

THE PRESIDENT—The question is on the amendment offered by the delegate from Hale.

MR. BROWNE—I desire to offer a substitute to the amendment of the delegate from Hale.

The substitute was read as follows: "Strike out all of Section 5 after the words 'shall be eligible' in line six and insert in lieu thereof the following 'to election or appointment to any office under this State within one year after the expiration of his term.'"

MR. BROWNE—The effect of the amendment will be—

MR. BROOKS—I rise to a point of order. I think the amendment offered by the gentleman from Talladega has been passed by the House. The delegate from Walker offered the same amendment.

THE PRESIDENT—The Chair does not understand that the proposition of the delegate from Walker covered the proposition of the delegate from Talladega.

MR. BROOKS — The amendment offered by the delegate from Talladega is not applicable to the amendment of the delegate from Hale. It applies to another part of the section.

THE PRESIDENT—It seems to the Chair that that point is well taken. The proposition of the gentleman from Talladega would be an order after the adoption of the other amendment but the Chair will hear the delegate from Talladega.

MR. BROWNE—The gentleman from Hale moves to strike out everything after the words "of his term" in line seven of Section five, I offer as a substitute for that to amend by striking out not only that but two lines and a half more and inserting something in lieu thereof, which is clearly permissible as a substitute for this amendment.

THE PRESIDENT—The Chair is inclined to overrule the point of order after hearing the explanation of the gentleman from Talladega.

MR. BROOKS—Will the Chair permit me to explain. The amendment of the delegate from Hale was to strike out the last clause of Section five. The substitute of the gentleman from Talladega is nothing more than an amendment, and you cannot offer an amendment to an amendment, but you can offer another amendment to another part of the section.

The original section, the amendment of the delegate from Hale and the amendment or substitute offered by the delegate from Talladega were then read.

THE PRESIDENT—The Chair will state it is not free from doubt but will overrule the point of order of the delegate from Mobile.

MR. BROWNE—I now desire to make an explanation to free it from that doubt.

THE PRESIDENT—The Chair rules that you can discuss the merits of the question.

MR. BROWNE—I will simply call the attention of the members to my substitute. The amendment of the delegates from Hale is to strike out all of Section five from the word "his term" on line seven which is only applicable to the Governor. I offer as a substitute to strike out all after the words "shall be eligible" in the first portion of line six so that that includes all that is embraced in the amendment of the delegate from Hale and something in addition and I insert in lieu thereof the following so as to make it read "neither of them shall be eligible to an election or appointment to any office under this State within one year after the expiration of his term."

MR. LONG (Walker)—Your amendment, if I understand it, makes the Governor, Lieutenant Governor, Secretary of State, Treasurer, Attorney General, Auditor, Superintendent of Education and Commissioner of Agriculture and Industries all ineligible?

MR. BROWNE—Every one of them.

MR. LONG (Walker)—Whereas the committee makes only the Governor ineligible?

MR. BROWNE—That is right. If there is any reason why the Governor should not be eligible to any office within one year after his term, the same reason applies with perhaps not so much force, but certainly with some force to all the other officers. It is within the power of every officer of the State to use his office to some extent to further his political ambition looking towards appointment or election to some other office; and if we are going to so provide in the Constitution that the Governor shall not be elected to any State office, that he shall not be elected to the United States Senate within a year after the expiration of his term,

we might protect the people of Alabama further that the Auditor should not run for Treasurer or the Treasurer for Auditor or any of the State officers for any other offices. They can all get together and swap offices and the effect of this would be to put all officers in the same category as the convention seems determined to put the Governor.

MR. ASHCRAFT—I heartily concur in the reasons which have been advanced by the gentleman from Talladega for the amendment which he offered to that part of the section, or, rather, as a substitute to the amendment offered by the delegate from Hale. It having been offered in the way it has been, illustrates to us the necessity if we are to vote upon it as a whole, of voting upon two distinct propositions at one time. I think the convention ought to vote upon the question of whether or not it will add this clause to the Constitution, and then also independently and free from that proposition have the privilege of voting upon the question of whether these various State officers may be elected to other offices than the one they are elected to at that time. I think it is proper for us to have that privilege. I am not familiar enough with parliamentary usage to know exactly how to get at it, but it seems to me, as there are two distinct questions, it is a case where we can call for a division, and I, therefore, move, if it is proper, for a division of the question.

THE PRESIDENT—The chair does not see how the question can be stated other than the adoption or rejection of the substitute offered by the gentleman for Talladega.

MR. ASHCRAFT—I think the gentlemen of the convention ought to have the privilege of being heard on that other proposition, if we are to vote on this as a whole. If there are reasons why the Governor should not succeed himself in office, and should not be eligible to any other office in the gift of the State in order that he may faithfully and impartially and diligently perform the duties of the office of Governor, the same reasons might pertain to the office of Treasurer, Auditor and Attorney-General. Merely to say that they are not to be allowed to succeed themselves will not reach the point we are striving after. If we are so unfortunate as to elect men who are tempted by politics to aspire to these other positions, when they come to this State House at once there will spring up these combinations which will result in a mere exchange of offices at the end of four years. These gentlemen will have excellent opportunities and great temptations to form what might be well be denominated as a State House ring, and it is from such a result as this that we are seeking to escape. Therefore, I think the provision suggested by the gentleman from Talladega to that amendment are eminently wise. We certainly want our State Treasurer to discharge his duties with faithfulness and impartiality and resting sorely upon the proposition that

all the honor he is to obtain is in the faithful discharge of his duty, and the same is true of each of the other officers, and I, therefore, heartily concur in the views of the gentleman from Talladega.

MR. BROWNE—I rise for the purpose of withdrawing my amendment temporarily to meet the views of delegates on the floor.

MR. JONES (Montgomery)—I move that we adjourn.

General Harrison tendered an invitation to any of the members of the Convention or its officers who desired to attend the funeral of Governor Samford transportation on a special train for that purpose.

Various committee meetings were announced also.

MR. WEAKLEY—I ask unanimous consent to offer a resolution.

The consent was given and the resolution was read as follows:

Resolution 145, by Mr. Weakley:

Be it resolved by this Convention that the proper officers of this Convention be instructed to transmit to the Constitutional Convention of the State of Virginia now in session at Richmond the following message:

To the President and Delegates of the Constitutional Convention of the State of Virginia, Richmond, Va.:

The President and delegates of the Constitutional Convention of the State of Alabama now in session at Montgomery, extend greetings to the President and delegates of the Constitutional Convention of the State of Virginia now in session at Richmond, and hope that they will improve on their present laws.

MR. PITTS—Strike out that last sentence.

MR. WEAKLEY—I accept the amendment.

The latter part of the sentence expressing the hope that they improve on their present laws was stricken out and the resolution adopted.

Vote being taken the Convention then adjourned.

TWENTIETH DAY

MONTGOMERY, ALA.,

June 14th, 1901.

The convention met at 2:30 p.m. pursuant to adjournment, being called to order by the President, a call of the roll showed the presence of 88 delegates.

LEAVES OF ABSENCE

For Today—Messrs. O'Neill of Jefferson, Grant of Calhoun, Sollie, Kirkland.

For Today and Tomorrow—Mr. Kyle.

For Tomorrow—Messrs. Robinson, Espy, Weakley, Norwood, Moody.

For Today, Saturday and Monday—Mr. Haley.

The report of the Committee on Journal that the Journal for the nineteenth day was found correct was on motion adopted.

THE PRESIDENT — Under the rule of the Convention adopted that the call of the roll for the introduction of ordinances, etc. will be discontinued at 11 o'clock, where the call of the Standing Committees is not finished the convention will recur to the point in the order of business where we left off and the convention will now take up the report of the Committee on Executive Department. The question is on the amendment offered by the gentleman from Hale (Mr. deGraffenreid.)

MR. BROWNE—I desire unanimous consent to make a report from the Committee on Taxation, Article XI, so that it can be printed.

THE PRESIDENT — Unless there is objection the report will be received.

The report was read as follows:

Report of Committee on Taxation.

Mr. President:

The Committee on Taxation has instructed me to make the following report, viz:

All of the ordinances referred to it have been carefully examined and considered by the Committee, and the substance of some of them has been incorporated in the herewith submitted article on Taxation, which is recommended to be adopted in lieu

of Article XI of the Constitution of 1875. Those suggestions, presented in such ordinances, which have been incorporated in the proposed article, will be manifest by the reading thereof.

All ordinances referred to the Committee are herewith returned.

The changes in the article on taxation are as follows:

Section 1 has been so amended as to exclude from taxation debts for the rent or hire of real or personal property for the current year of rental or hire, in the hands of the landlord or hirer, when the real or personal property is assessed for taxation at its full value.

Section 3 has been amended so as to authorize the Governor to negotiate temporary loans, not to exceed $300,000, whereas under the Constitution of 1875, such loans are limited to $100,000 and so as to provide for refunding the bonded indebtedness of the State.

Section 4 is amended by limiting the amount of State tax to 65-100 of 1 per centum, instead of 3-4 of 1 per centum.

Section 5 is amended so as to provide for the construction and maintenance of public roads by special taxation, as is now provided for public buildings and bridges but all of such special tax is limited to one-fourth of one per centum, whereas the special tax for such buildings and bridges is now without Constitutional limitation. This section is further so amended as to provide that counties may levy and collect such special taxes as may be authorized by law for public schools, provided that the extent of such tax, the time it is to be continued, and the purpose thereof, shall be first submitted to a vote of the qualified electors of the county who are property tax payers, and voted for by a majority in numbers, and in taxable value of property, voting at such election; Provided also, that no such tax shall increase the total amount of taxation for all State and county purposes, except public buildings, roads and bridges to a greater rate than $1.25 on every $100 of taxable property. This public school fund is provided to be equitably appropriated and paid to the several public schools in the county by the Commissioners' Court or Boards of Revenue thereof.

Section 6 has been amended by striking out the words "or enterprises."

Section 7 has been amended so as to provide for the levy and collection by cities and towns of a special school tax under similar restrictions to those with regard to the special school tax of counties, providing the rate for all State, county and city purposes shall not exceed $1.75 on the $100 of taxable property. This fund

is to be appropriated equitably among and paid to the public schools of the city or town by the corporate authorities thereof.

Section 8 has been entirely omitted.

An additional section (as Section 9) is recommended, limiting the indebtedness of counties to 5 per centum of the taxable value of the property thereof, but providing it shall not apply to indebtedness in excess of such 5 per centum which has been already created or authorized by law to be created.

A second additional section (as Section 10) is recommended, limiting the indebtedness of cities and towns to 5 per centum of the taxable value of the property, but allowing an additional 3 per centum indebtedness for water works, gas and electric light plants, and sanitary sewerage. It is further provided that such limitation shall not apply to indebtedness in excess of such five per centum already created or authorized by law to be created.

Cecil Browne,

Chairman of Committee on Taxation.

ARTICLE XI

Taxation.

Section 1.—All taxes levied on property in this State shall be assessed in exact proportion to the value of such property, but no tax shall be assessed upon any debt for rent or hire of real or personal property while owned by the landlord or hirer, during the current year of such rental or hire, and when such real or personal property is assessed at its full value; provided, however, the General Assembly may levy a poll tax, not to exceed $1.50 on each poll, which shall be applied exclusively in aid of the public school fund in the county so paying the same.

Sec. 2.—No power to levy taxes shall be delegated to individuals or private corporations.

Sec. 3—After the ratification of this Constitution, no new debt shall be created against, or incurred by this State, or its authority, except to repel invasion or suppress insurrection, and then only by a concurrence of two-thirds of the members of each House of the General Assembly, and the vote shall be taken by yeas and nays, and entered on the journals; and any act creating or incurring any new debt against this State, except as herein provided for, shall be absolutely void; provided, the Governor may be authorized to negotiate temporary loans; never to exceed $300,000 to meet the deficiencies in the Treasury; and until the same is paid, no new loan shall be negotiated; provided further, that this section shall not be so construed as to prevent the issuance of bonds for the purpose of refunding the States existing bonded indebtedness.

Sec. 4.—The General Assembly shall not have the power to levy, in any one year, a greater rate of taxation than sixty-five one-hundredths of 1 per centum on the value of the taxable property within this State.

Sec. 5.—No county in this State shall be authorized to levy a larger rate of taxation in any one year, on the value of the taxable property therein, than 1-2 of 1 per centum. Provided, that to pay debts existing at the ratification of the Constitution of 1875, an additional rate of 1-4 of 1 per centum may be levied and collected which shall be exclusively appropriated to the payment of such debts or the interest thereon; provided further, that to pay any debt or liability now existing against any County, incurred for the erection, construction and maintenance of the necessary public buildings or bridges, or that may hereafter be created for the erection of necessary public buildings, bridges or roads, any county may levy and collect such special taxes not to exceed a rate of 1-4 of 1 per centum as may have been or may hereafter be authorized by law, which taxes so levied and collected shall be applied exclusively to the purposes for which the same were so levied and collected; provided further, that for the maintenance of public schools any county may levy and collect such special tax as may be authorized by law; provided such special tax the time it is to continue and the purposes thereof shall have been first submitted to a vote of the property tax payers who are qualified electors in said county, and voted for by a majority thereof in numbers, and in value of taxable property, voting at such election; provided that the rate of such special tax for maintenance of public schools shall not increase the rate of taxation in any one year to more than $1.25 on every $100.00 worth of taxable property, for all State and County purposes, excluding any special tax for the erection, construction and maintenance of necessary public buildings, bridges and roads; and provided further, that such special tax for schools shall be apportioned equitably and paid to the public schools of such county, by the court of County Commissioners or Board of Revenue thereof.

Sec. 6.—The property of private corporations, associations and individuals of this State shall forever be taxed at the same rate, provided this section shall not apply to institutions devoted exclusively to religious, educational or charitable purposes.

Sec. 7.—No city, town or other municipal corporation other than provided for in this article, shall levy or collect a larger rate of taxation in any one year on the property thereof than 1-2 of 1 per centum of the value of such property, as assessed for State taxation during the preceding year; provided, that for the payment of debts existing at the time of the ratification of the Constitution of 1875, and the interest thereon, an additional rate of 1 per centum may be collected, to be applied exclusively to such indebtedness; provided, that for the maintenance of public schools such city, town or other municipal corporation may levy and collect such special tax as may be authorized by law; provided such special tax shall not be levied and collected when it shall cause a greater rate of taxation in any one year than $1.75 on every $100.00 of taxable property, for all State, County and municipal purposes, except the erection, construction and maintenance by counties of necessary public buildings, bridges or roads, and provided such special tax for schools, the time it is to continue and the purposes thereof shall have been first submitted to a vote of the property tax payers who are qualified electors in said city, town or other municipal cor-

porations, and voted for by a majority thereof, in numbers, and in value of taxable property, voting at such election, and provided such tax for schools shall be apportioned equitably and paid to the public schools of said city, town or other municipal corporation by the municipal authorities thereof; and provided, this section shall not apply to the city of Mobile, which city may levy a tax not to exceed the rate of 3-4 of 1 per centum to pay the expenses of the city government, and may also levy a tax not to exceed the rate of 3-4 of 1 per centum to pay the indebtedness of said city existing at the time of the ratification of the Constitution of 1875, and the interest thereon; provided further, that this section shall not apply to the city of Birmingham, which city may levy and collect a tax not exceeding 1-2 of 1 per centum, in addition to the tax of 1-2 of 1 per centum hereinabove allowed to be levied and collected, such special tax to be applied exclusively to the payment of the interest on the bonds of the said city of Birmingham heretofore issued by said city in pursuance of law, and for a sinking fund to pay off said bonds at the maturity thereof.

Sec. 8.—The General Assembly shall not have the power to require the counties or other municipal corporations to pay any charges which are now payable out of the State Treasury.

Sec. 9.—No county shall become indebted in an amount greater than 5 per centum of the taxable value of the property thereof; provided this section shall not apply to any indebtedness in excess of such 5 per centum, which has been already created or authorized by law to be created.

Sec. 10.—No city, town or other municipal corporation shall become indebted in an amount exceeding 5 per centum of the taxable value of the property thereof; provided that for the erection or purchase of water works, gas or electric plants, or sanitary sewerage an additional indebtedness not to exceed 3 per centum may be created; provided, further, that this section shall not apply to indebtedness in excess of such 5 per centum already created or authorized by law to be created.

MR. BROWNE—I now move that the report be laid on the table until such time as the convention shall be ready to act on it.

THE PRESIDENT—The report, under the rules, will lie over one day and be printed. The next order of business is the report of the Committee on Executive Department, and the question is on the amendment of the delegate from Hale.

MR. deGRAFFENREID—I believe I made the motion to amend, and, as the maker of it, I have the right to conclude the argument.

MR. JONES (Montgomery)—I deem it my duty, in behalf of the committee to explain some of the considerations which convinced them that the provision now sought to be stricken out was a wise one. Three objections are made. One is that it disfranchises the people. Another is, that it is a vain thing to put in the Constitution; and the third one is that there is no means

of enforcing it. Now, I propose to speak very briefly, because all the speakers not excepting myself, have perhaps occupied more time on this article than was proper. When, Mr. President, was it ever considered an unheard of or improper thing for the people to demand pledges of their rulers? The principle is as old as Magna Charta. Then we come to the disfranchisement argument. Who proposes this, Mr. President? It is the people. Every Constitution is a limitation upon the powers of the people. Every Constitution is a surrender of some of their otherwise inherent rights for the public good. Mention was made the other day that such provision was contrary to the teachings of Jefferson. I have great reverence for the name of Jefferson, though I think in modern days he has been made the father of so many doctrines, that it is hard now to conceive what he stood for originally. But we find this provision in the Constitution of Virginia, that the Governor should be elected for four years, and should thereafter be ineligible to the office. Coming down to later times, a great assembly met in this hall a little over a quarter of a century ago. In view of all the evils under the Constitution of the United States from the right of an officer to succeed himself, those wise men and great men departed from it in one instance, by providing that the President of the new Confederacy should have a term for six years, and thereafter should be ineligible. You will find everywhere, Mr. President, in searching the different Constitutions, from the earliest days of the Revolution down to this good hour, where the people have thought it wise to disfranchise themselves, if that be the effect of it—by providing certain officers should not succeed themselves, or should not be eligible for office beyond a certain length of time. So there is nothing new in the principle. Then the question arises, is there an evil to which it should be applied? If in another place, and not speaking with the sense of responsibility which I think should be borne in mind by a man who speaks on this floor, I might use language to depict in detail some of the evils from which this people have suffered by reason of the ambition of Governors, and their efforts to achieve it. It is far from the authors of this resolution to condemn ambition in any man. It is said to be an infirmity of noble minds. The best and the purest and the wisest men, when tempted by ambition, sometimes consciously and sometimes unconsciously, do things which they would put far from them, if it were not for the temptation. Deliver us not into temptation, is a wise maxim, as well as one which a Christian ought to remember. It has been my good fortune to have been the intimate friend, with one exception, of every Democratic Governor of Alabama since 1875. I say it conservatively, with no desire to reflect upon any one who has held that office, that there never has been a Governor who cherished that ambition, whose administration would not have been better and higher, if he had not been an aspirant. If the gentlemen ask us to cite some instances, I answer the fact that this Constitutional

Convention sits here now instead of two years earlier, ought to be evidence to any man of the evils of allowing great power to abuse the Governor's office, and at the same time not curbing his power to abuse them in the pursuit of the Senatorship.

Mr. President, we want to consecrate the man who holds this high power, we want to impress upon him, no matter how humble he be, no matter how weak he may be, that it is not the man, but the great office he wields, with which the people are concerned. It will be a great day for our State when the citizen who takes this exalted trust, feels that he is cut off from temptation, that his enemies even cannot impute to him designs which he may not harbor, and that his administration and his efforts will be tried upon his merits and his acts. It is not altogether what a Governor is or what he does that makes his weight with the people, but it is what they believe to be his designs, whether selfish or unselfish, and I do not suppose of late years, at least, that any man who ever held the office did not in the beginning feel antagonisms that crept up against his efforts to reform abuses or initiate policies from people who believe that in defeating them they might lesson his power to go to the Senate.

These, in short, Mr. President, were the reasons which actuated the committee in putting the provision in there, that his acceptance of the office should be a pledge to the people. Now it is objected, Mr. President, that pledges that cannot be enforced ought not to be in the Constitution. Why, what is the thirty-seventh Article of the Bill of Rights, what are the glittering generalities about the equality of the people and the right to pursue happiness? They are simply admonitory. Constitutions frequently contain precepts and examples of morality. It is nothing new in a Constitution to embody some great principle, although it is not capable of enforcement in the courts of the country. Why, Mr. President, at least half of the great commanding constitutions which refer to the Legislative Department, are incapable of enforcement by any earthly tribunal. The Constitution says the legislature shall assemble at such and such a time. Suppose it refuses to do it? Is there any tribunal on earth that can impose obedience to it? The Constitution says it is their duty to assemble on a call of the Governor in extra session. Suppose they refuse to do it, is there any power in the people of Alabama constitutionally to compel them to do it? I might cite other instances, Mr. President. Then it seems to me, sir, that there is no reason for objecting to putting in the Constitution, a pledge which embodies the deliberate public opinion of the people of Alabama, that a man who takes that office parts for the time with other ambitions and consecrates himself to the service of the people for the time mentioned in the Constitution. Mr. President, when that provision is in the Constitution it will have a moral influ-

ence, that will do as much to build up the State as the ability or genius of the officer in other channels.

MR. deGRAFFENREID—In the discussion that was awakened by the introduction of this resolution to strike the clause under consideration from the article proposed by the Committee on Executive Department, there has not been a single person to take this floor and maintain that the clause complained of can be enforced or has any legal efficacy whatever. No man who has spoken in favor of that clause, or of that provision, has attempted to say to any man in this Convention that the addition of that clause will add any strength so far as the law is concerned or the ability of the Courts of Alabama to enforce the law, but they merely say that it will have a good moral effect. As I stated on yesterday the Constitution is the fundamental law of a State, its every word should be truth, its every sentence should speak not the desire but the will of the people, and such a will as the courts established by the people, or the legislature called into existence by the people, by appropriate legislation can enforce. Now the gentleman who has just preceded me says that in the Declaration of Rights there are matters that cannot be enforced. I think if the gentleman will consider that he will find that there is not a statement in the Declaration of Rights defining the rights of man, defining the powers of man, defining the duties of legislators, that cannot now be enforced by the courts or by legislation which could be had by legislators called into existence by the people. He says, Mr. President, for instance, that the Constitution provides that the legislators shall meet upon the call of the Governor. How can that be enforced? Why, by appropriate legislation. The legislature can pass a bill that it they refuse to meet upon the call of the Governor that their offices shall be abrogated and that new representatives shall be selected to take their place. But the Constitution of the United States—and I refer now not to the amendments that were adopted subsequent to the war—but to the Constitution that was adopted by the original States, by our fathers, fixed the qualification of Senators and Representatives of the United States. When the people met to fix the Constitution of the United States they said what should and what should not be the qualifications of a Senator or a Representative, and it is, no one denies it, within the exclusive power of Congress to pass upon the qualifications of their own members. We are attempting here out of respect to a sentiment which we cannot enforce as law, to place in the fundamental law of the State a declaration which no court of this State and no court of any State can enforce. The objection as I stated is purely technical—the objection is, that we should not go before the people with anything in our Constitution which is not the law. We are admittedly helpless upon the subject. We go forth to teach the people generally, everywhere, a due respect for the law. Every judge when he charges a grand jury dwells much upon that proposition, and yet here in

this assembly we are, out of respect to a sentiment over which we cannot have any control, attempting to put something into the Constitution of this State that is not law and cannot be enforced as such. For these reasons, gentlemen, I think that this part of this article should be stricken from this report. I sympathize with the arguments of the gentleman, and sympathize with the purpose, as I stated, to remove as far as in our power lies every incentive to a Governor of Alabama to so use his power as to effect his political advancement, but in doing so we should maintain respect for the law and for the powers that have been left to the States by the Constitution of the United States.

MR. WHITE—I think we have debated this question long enough, and I move to table the amendment.

The motion was seconded.

MR. LONG (Walker)—I ask for the reading of the amendment.

The amendment was read as follows:

Amend Section 5 by striking therefrom all of the Section that succeeds the following words, in line seven, viz: "After the expiration of his term."

MR. BROOKS—I would suggest that the Clerk read the clause which is sought to be stricken out, so that the Convention will know what they are acting on.

THE PRESIDENT—The matter has been discussed so long, does the gentleman desire it to be read?

The delegate assented and Section 5 was read as follows:

Sec. 5. The Governor, Lieutenant-Governor, Secretary of State, State Treasurer, Attorney General, State Auditor, Superintendent of Education and Commissioner of Agriculture and Industries shall hold their respective offices for the term of four years from the 1st day of December of the year in which they shall have been elected, and until their successors shall be elected and qualified, and after the first election under this Constitution neither of them shall be eligible as his own successor; and the Governor shall not be eligible to election to any office under this State within one year after the expiration of his term; and his acceptance of the office of Governor shall be a pledge to the people not to accept an election or appointment to the Senate of the United States at any time during his term, or within one year thereafter.

THE PRESIDENT—The question is on the motion to table the amendment.

A division was called for, and by a vote of 54 ayes to 56 noes, the motion to table the amendment was lost.

The Chair stated the question recurred upon the amendment offered by the gentleman from Hale.

MR. deGRAFFENREID—I move the previous question.

The motion was then withdrawn, and a division being called for, by a vote of 59 ayes to 56 noes, the amendment was adopted.

The Chair stated the question recurred upon the adoption of the Section as amended.

MR. REESE—I rise to ask unanimous consent to offer a short resolution, in order that it may be referred to a committee. It will save very much time.

There were audible expressions of dissent.

MR. PETTUS—Mr. President, I desire to offer an amendment to the Section as amended, and ask for a reading of the amendment.

The amendment was read as follows:

Amend Section 5, page 6, by striking out the words "neither of them," in the fifth and sixth lines of said Section, and inserting in lieu thereof the words "no one of said officers."

MR. JONES (Montgomery)—We accept that.

MR. PETTUS—It is a question of the verbiage, and I think the Committee will accept it.

MR. JONES (Montgomery) — We accept it. Mr. Graham has already made the same motion and we accepted it.

The amendment was thereupon adopted.

MR. CHAPMAN—I have an amendment to offer to Section 5.

The amendment was read as follows:

Amend Section 5, Article V., as follows: By striking out the word "one" in lines seven and nine, and inserting in lieu thereof the word "four."

MR. JONES (Montgomery)—I move to lay that amendment on the table.

The motion was carried.

MR. FOSTER—I have an amendment.

The amendment was read as follows:

Amend Section 5 by adding immediately after the word State, in line seven, the following, "or the Senate of the United States."

The question being stated, a division was called for.

MR. LONG (Butler)—I ask for the reading of the amendment.

The amendment was again read.

MR. WHITE—I call for the previous question on the adoption of the Section.

THE PRESIDENT—Will the gentleman allow the Chair to announce the result of the vote. It appears there are 75 ayes and 23 noes, and the amendment offered by the gentleman from Tuscaloosa is adopted. The gentleman from Jefferson calls for the previous question.

MR. DENT — I would like to hear the Section read as it stands up to this point.

The Section, as amended, was read.

MR. DENT—I now offer an amendment.

THE PRESIDENT—The gentleman from Jefferson moves the previous question. The question is whether the main question shall now be put.

MR. PETTUS—I rise to a question of parliamentary inquiry.

THE PRESIDENT—The gentleman will state the question of inquiry.

MR. PETTUS—I did not catch the reading by the Clerk, to understand whether or not the word appointment comes in after the word election in the sixth line of Section 5. I would like to know whether that was adopted.

Adopted:

Mr. Dent (Barbour) endeavored to secure recognition.

THE PRESIDENT—The Chair will recognize the gentleman from Barbour so soon as the gentleman from Limestone states his point of inquiry.

MR. PETTUS—I ask if the words "or appointment" are added after the word election in the sixth line of the fifth section.

A number of delegates replied in the negative.

MR. PETTUS—I would like to offer that as an amendment.

MR. DENT—Will the gentleman withdraw his motion for the previous question so that I can offer my amendment?

MR. WHITE—I will withdraw the motion for the previous question for the gentleman from Barbour if he will renew it.

MR. DENT—I offer this amendment, and I would like to state the purpose of the amendment.

THE PRESIDENT—The gentleman can state as soon as the amendment is read, and the question is stated to the convention.

The amendment was read as follows: Amend section 5, article V, by adding after the words "as his own successor," in the sixth line, the following words "nor shall they be eligible as the successors of each other.

MR. DENT—The object of the amendment is to prevent an officer who is holding some office, say attorney general, from running for some other office. It prevents an officer who holds the office of Auditor from running for the office of Secretary of State. In other words it is the swapping around that I want to prevent, and that is the object of the amendment.

MR. PETTUS—I move to lay the amendment on the table.

Seconded.

MR. ASHCRAFT — I want to offer a substitute for the amendment.

THE PRESIDENT—The Chair would rule that it is not in order, as the question before the Convention is the motion to table.

On the motion to table a division was called for, and Mr. Pettus asked for a verification of the vote, by the ayes and noes, to which there were expressions of dissent.

The Chair stated in casting up the vote, there were fifty-five ayes and fifty-two noes, and the motion to table prevailed.

MR. PETTUS—I withdraw the call.

MR. DENT — In compliance with my agreement with the gentleman from Jefferson, I renew the motion for the previous question.

MR. deGRAFFENREID—Too late—

THE PRESIDENT—The gentleman from Barbour did not retain the floor and the Chair recognized the gentleman from Lauderdale.

MR. ASHCRAFT—I desire to introduce an amendment.

The amendment was read as follows: Amend Section 5 by striking out of line six thereof, the following words, "as his own successor and the Governor shall not be eligible."

The Chair stated the question to be upon the amendment offered by the gentleman from Lauderdale.

MR. ASHCRAFT—This is the same question which was discussed slightly yesterday, on an amendment proposed by the gentleman from Talladega, which was temporarily withdrawn. If that amendment should be adopted, it would read then as follows, beginning in the fifth line, and after the first election under this Constitution, no one of them shall be ineligible to election to any office under this State within one year after the expiration of his term. I tried the best I could, to say on yesterday, the reasons why that amendment should be made. The gentleman from Barbour has stated also some of those reasons. They seem to me to be very clear. There can be no reason, Mr. President, why a State Auditor, should be allowed to succeed the attorney general, or the secretary of state, and not be allowed to succeed himself. It seems to me the question is clear.

MR. WEATHERLY—I move to lay the amendment on the table.

Upon the motion to table a division was called for, and by a vote of seventy-nine ayes to twenty-nine noes, the amendment was tabled.

MR. HARRISON—I desire to offer an amendment.

The amendment was read as follows: Amend Section 5 by striking out the words "December" where it occurs on the fourth line of said section, and insert in lieu thereof the word "November" and strike out the word "first" where it occurs on the third line of said section, and insert in lieu thereof the word "fifteenth."

The Chair stated the question to be upon the amendment proposed by the gentleman from Lee.

MR. HARRISON—The object of that amendment is to prevent the Governor-elect from remaining out of office until two weeks or more of the legislature has passed. It occurs to me that as soon as possible after the—

MR. JONES (Montgomery)—I think that a very good suggestion and I will accept it on behalf of the Committee.

The Chair stated the question.

MR. FOSTER—May I ask the gentleman a question. I did not catch the reading of it; would that make the Governor be installed on the same day that the legislature meets?

MR. HARRISON—No, sir; the legislature meets on the second Tuesday. It would not be a perfect fit, but I put it the fifteenth, so it would be only a few days after he comes in, so that we would not have a Governor coming in when half of the legislative session has expired.

MR. OATES—Is it within the powers of the committee after a measure is in full possession of the convention, to accept any amendment that is offered?

THE PRESIDENT—The Chair would hold that it is not.

MR. OATES—I make that point—

THE PRESIDENT—The Chair was stating the amendment to see whether the House would accept it.

MR. JONES (Montgomery)—I submit that the Chairman of the committee has a perfect right by every rule of parliamentary law that was ever printed, to get up and state the acquiescence of his committee in an amendment, and I insist I was strictly in order and that the gentleman's point of order was not well taken.

THE PRESIDENT—The Chair thinks that the Chairman of the committee has a perfect right to indicate to the convention that the committee approves the amendment offered, but it would be proper, after the matter is before the convention, and in the possession of the convention, if it proposed an amendment, to submit the matter to the convention.

MR. PIERCE—I desire to offer an amendment.

THE PRESIDENT—There is another amendment before the convention. The gentleman is not in order at this time.

The question was put upon the amendment of the delegate from Lee, and the same was adopted.

MR. PEARCE—I desire to offer an amendment.

The amend was read: Amend section five, in the sixth line after the word election by adding the words "or appointment."

MR. PETTUS—I move the adoption of the amendment.

MR. JONES (Montgomery)—How does it read then?

The section as amended was read "and shall not be eligible to election or appointment."

MR. JONES—If I am not out of order, I will say in behalf of the committee, they have no objection to that.

MR. DUKE—I move the previous question.

THE PRESIDENT—The question is, shall the main question be put now.

MR. PARKER (Elmore)—I move to recommit—

THE PRESIDENT—That is out of order.

Mr. Burns (Dallas) was trying to secure recognition.

THE PRESIDENT—For what purpose does the gentleman from Dallas arise?

MR. BURNS—I was trying to get some information (laughter).

THE PRESIDENT—The Chair ruling would be—

MR. BURNS—I think I would be out of order to offer an amendment right now (laughter).

MR. PARKER (Elmore)—I ask the Chair to state the main question. What is the question? I desire a reading of the amendment.

THE PRESIDENT—The question is upon the call for the previous question. Shall the main question be now put?

MR. PARKER (Elmore)—What is the main question.

The main question on a vote was ordered.

Section 5, as amended, on a vote was then adopted.

MR. ROGERS (Sumter)—I desire to introduce an ordinance.

THE PRESIDENT—The gentleman is not in order to introduce an ordinance at this time.

The Secretary will read Section 6.

The section was read as follows:

Sec. 6. The Governor and Lieutenant Governor shall each be at least thirty years of age when elected, and shall have been citizens of the United States ten years and resident citizens of this State at least seven years next before the date of their election. The Lieutenant Governor shall be ex-officio President of the State, which shall elect a President pro tem, from among its own members, who shall discharge the duties of the Lieutenant Governor in the Senate, whenever he is absent or disqualified.

MR. JONES (Montgomery)—I move the adoption of that Section.

Mr. Lomax here took the Chair.

The motion was seconded.

MR. SPRAGINS—I offer an amendment.

The amendment was read: Amend Section 6 by adding at the end thereof, "but the Lieutenant-Governor when acting as President of the Senate shall have no right to vote, except in the event of a tie."

The amendment was adopted.

The question recurring upon the adoption of the Section as amended the same was adopted.

MR. JONES (Montgomery) — Mr. President, I have an amendment to Section 7.

THE PRESIDENT PRO TEM—There is a minority report accompanying Section 7 and under the rules it will come in as an amendment to the Section. The Secretary will read the Section, and then read the minority report.

The Section and report were read as follows:

Sec. 7. The Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education, and Commissioner of Agriculture and Industries shall receive compensation for their services, which shall be fixed by law, and which shall not be increased or diminished during the term for which they have been elected, and with the exception of the Lieutenant-Governor, shall reside at the Capital. After the adoption of this Constitution, the compensation of the Governor shall be five thousand dollars per annum, which shall not be thereafter increased or diminished during the term for which he shall have been elected.

The minority report was read as follows:

The undersigned member of the Committee on Executive Department does not concur in the report of the Committee as to Sections 7 and 27, and he offers as a substitute for Section 7 the following:

Section 7. The Governor, Lieutenant Governor, Secretary of State, State Auditor and Attorney-General shall receive compensation for their services which shall be fixed by law, and which shall not be increased or diminished during the term for which they shall have been elected, and shall, except the Lieutenant-Governor, reside at the State Capital during the time they continue in office, except in cases of epidemic.

And he further recommends that Section 27, (which relates to the loaning of money in the State Treasury), as reported by said Committee, be stricken out and do not pass.

Respectfully submitted,

Watkins M. Vaughan.

THE PRESIDENT PRO TEM—The question is upon the adoption of the substitute offered by the minority of the Committee.

MR. VAUGHAN — I want to offer an amendment to the substitute.

MR. WATTS—I rise to a question of inquiry.

THE PRESIDENT PRO TEM—The gentleman will state his question.

MR. WATTS — Will that amendment or minority report, leave out the Superintendent of Education and the Commissioner of Agriculture and Industries?

THE PRESIDENT PRO TEM—The gentleman who made the minority report requests leave to add those two offices to the minority report.

The leave was granted.

MR. LONG (Walker)—I rise to favor the minority report of the Committee, Mr. President. Alabama has had, since her admission into the Union, five Constitutions, and neither of these constitutions since 1819, '61, '65, a Republican Constitution that was so cursed in '68, or '75, had any clause in it fixing the salary of the Governor of the State of Alabama. I think it would be unwise for us to say that the Governor of the State shall have a $5,000 salary, and to say it in the Constitution, even if there were merit in the contention. It seems to me that this is a question that should be left to the Legislature of Alabama to settle and to pass upon. There has never been a time, as I have stated before, when such a clause was inserted in any Constitution of this State.

We were sent here by the people with a pack of cards, with nothing in it except suffrage cards, and here we are drawing and putting in new decks, and dealing from the bottom new officers, creating offices, and increasing salaries, in the first Article of the Constitution we consider. We must remember that this has to go back to the people for ratification. I might vote to increase the Governor's salary in the General Assembly of Alabama, if I were a member of that body when such a question is before it, but I can never see my way clear to vote to place it in the Constitution. In our present constitution, Section 7 of Article V, reads as follows:

7. The Governor, Secretary of State, State Treasurer, State Auditor and Attorney General, shall reside at the seat of government of this State during the time they continue in office, except in cases of epidemics; and they shall receive compensation for their services, which shall be fixed by law, and which shall not be increased or diminished during the term for which they shall have been elected.

I can see no just reason why we are called on here to increase the salary of the Governor. In twenty-five years from now, this great State might want to pay a salary equal to the great State of New York, or some other States that I might mention, and it might be necessary then to pay a salary of $7,500 or $10,000 to the Governor of the great State of Alabama in the future, and yet our Constitution might prohibit it. Another thing I want to call to the attention of this house, this clause in this report of the committee makes this effective immediately upon the ratification of this Constitution, which is clearly in violation, and in strict violation of the Constitution now. It puts it into effect immediately on its ratification, which is nothing more nor less than a second-handed back-salary grab. If you are going to have it, make it apply to the next Governor, after the next general election in Alabama. It seems to me, Mr. President, that the minority report should be adopted, and I hope the convention will vote that way, because I tell you that a $2,000 raise, as little as it is in many of our eyes, and many of the people here who are used to voting away thousands of dollars, to many of the people of this State it will have the same effect as if it were two million dollars, because they will say the principle is the same.

We have pledged ourselves not to raise taxes. When you take care of the Governor, why not take care of the Attorney General? Why not take care of the Treasurer? Why not take care of the Secretary of State and the State Treasurer? Why not take care of every Judge in the State of Alabama? Why not take care of the poor members of the Legislature, and fix their salaries at eight or ten dollars a day? If you are going to fix one and make an exception, why not place all salaries in the Constitution?

I admit that the office of Governor is a great office, but it was never the intention of the Democracy of this State to make this an office of money. It was intended to be an office of profit. (Laughter). I can see no reason why. (Laughter). I mean an office of honor, but it is not intended to make it an office of profit so to speak, Mr. President. I hope that the minority report of the committee will be adopted.

MR. HENDERSON—I have an amendment—

The amendment was read: "Amend Section 7, by striking the words 'Lieutenant Governor' from the first line of said section."

MR. deGRAFFENREID—I move that it be laid on the table.

MR. LONG (Walker)—I make the point of order that the minority report has precedence over any amendment offered by any member on the floor.

THE PRESIDENT—The chair is of the opinion that under the rules a minority report shall be treated as an amendment, and consequently the point of order of the gentleman from Walker is not well taken, and the question is upon the amendment offered by the gentleman from Pike.

MR. O'NEAL (Lauderdale)—I move to lay the amendment on the table.

Mr. Blackwell—I want to ask what the effect of that will be. Won't it carry the minority report with it?

MR. deGRAFFENREID—No, sir.

THE PRESIDENT PRO TEM—No, not under our rules. The gentleman from Lauderdale moves to lay the amendment on the table.

The motion to table was carried.

MR. BURNETT—I have an amendment.

The amendment was read: "Amend Section 7 of the minority report by inserting in the first line after the word 'the' the word 'Governor.'"

The President here resumed the chair.

THE PRESIDENT—The question is on the amendment proposed by the gentleman from Conecuh.

MR. O'NEAL (Lauderdale)—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. O'NEAL—As I understand it, the amendment simply embraces what the minority report of the committee already covers.

MR. BURNETT—The gentleman is in error.

MR. VAUGHAN—The minority report has the word "Governor" in it.

MR. BURNETT—I do not understand it. As I understand it the minority report is like the majority report, with the exception of fixing the compensation of the Governor at five thousand dollars.

THE PRESIDENT—The gentleman who made the minority report says that it contains the word Governor.

MR. BURNETT—It has got "Governor" in there.

THE PRESIDENT—Yes.

MR. BURNETT—I withdraw the amendment then.

MR. O'NEAL (Lauderdale)—I regret that I am unable to agree with the proposition of the gentleman from Walker. The office of Governor is the highest in the gift of a people of any State, and its compensation should be commensurate with the dignity and the responsibility of the position. It is well known to be a subject of just criticism to our form of government, and its practical operation that men occupying the highest and most exalted positions frequently receive less compensation than petty officials. It is a well known fact that many Sheriffs, Probate Judges, the Clerk of the Supreme Court, Clerks of courts and other officials in this State, receive more compensation than the Chief Magistrate of Alabama. The result is that no man who is an incumbent of that high office, unless he has other sources of income of revenue, can accept it would a pecuniary sacrifice, and it operates as a positive bar to gubernatorial aspirations by men of meagre financial resources. Only the rich, old bachelors, or those who are content to live in Montgomery hotels can afford to accept this high position.

Now the purpose of the committee is to raise this salary, commensurate with the dignity and responsibility of that high office. It is no answer to say that the Legislature can adjust this salary. We know as a matter of fact that for twenty-five years bills of this character have been introduced in the legislature without passage. We know, as the Chairman of the committee wisely stated, that the short interval that elapses between the meeting of the Legislature and the inauguration of the Governor, does not furnish sufficient time for the passage of such a law.

MR. PETTUS—May I ask the gentleman a question.

THE PRESIDENT—Does the gentleman yield?

MR. O'NEAL—Certainly.

MR. PETTUS—Would it not be competent for the Legislature at one session to provide for an increase in the salary of the Governor to take effect for the next Governor elected?

MR. O'NEAL — Yes, of course it would be competent, but they have not done it, and never will do it. The legislators of Alabama are so much engrossed in local legislation, and in looking after the interests of the particular beat in which the member resides, that they do not generally have time to give attention to legislation of this character. We know as a matter of fact that bill after bill of this character has been introduced, and never has been passed and never will be passed. The office of Governor is the highest office within the gift of the people. It is the people's office, and while the people of Alabama are just they are not parsimonious—

MR. LONG (Walker)—May I ask a question?

THE PRESIDENT—Does the gentleman yield?

MR. O'NEAL—Certainly.

MR. LONG (Walker)—You state that bill after bill of this kind has been introduced in the legislature; can you recall a single time that such a bill has been introduced?

MR. O'NEAL—I recall a number of bills of that character, and if the gentleman will search the records he will find a number of such bills.

Now Mr. President, the law imposes upon the Governor the high and responsible duty of seeing that the laws of the State are faithfully executed. In this republic of ours we depend for our security not upon armies and powerful navies, but upon that majestic supremacy of the law in which alone may be read the progress of a government founded upon the rights and fortified by the intelligence of the people. Alabama, first in the roll of States, is first in all of the elements that constitute a great and powerful and imperial commonwealth. Her people are just and generous, and I deny that they are opposed to this fair, but tardy, measure of justice, to this high official. I believe that they will approve and endorse our action in putting it in the fundamental law of the State, that the salary of the Governor shall not be less than $5,000 a year.

MR. HOWZE—I have an amendment I would like to offer, either to the substitute, or the original article.

THE PRESIDENT—To which does the gentleman offer it.

MR. HOWZE—I offer it to the substitute or the minority report.

The amendment was read: Amend the substitute for Section 7 by adding the following: The Lieutenant-Governor shall be paid the same compensation as that received by the Speaker of the House, except when serving as Governor, when he shall receive the salary of said officer.

THE PRESIDENT—The question will be on the amendment proposed by the gentleman from Jefferson to the minority report.

MR. BLACKWELL—I rise, Mr. President, to discuss the minority report offered by the gentleman from Dallas. I do not want to discuss the amendment.

MR. LONG (Walker)—I rise to a point of order. I have no objection to the amendment offered by the gentleman from Jefferson, but I make the point of order that it is not germain to the

subject, and therefore it is out of order. I think it is a good amendment, and the Committee itself has agreed to that amendment, but I don't think now is the time for it.

The amendment was again read.

MR. LONG (Walker)—I see that "Lieutenant-Governor" is in the minority report and I therefore withdraw the point of order.

MR. REESE—I understand the question before the House is the amendment offered by the gentleman from Jefferson to the minority report. I favor the substance of the gentleman's amendment. I, however, am not inclined to think that it goes sufficiently far. When the question as to the establishment of this office came before the Convention, it seemed to be the general opinion that we were not to fasten a lien on the people of the State of Alabama to support this office in any greater dignity than the office had been supported in years gone by, under a different name. I do not think the amendment goes sufficiently far. I am inclined to think it ought to contain the words "and no other compensation." The substance and the purpose that is proposed to be accomplished by the gentleman, is unquestionably a good one. It was said on the floor here the other day, and with great force and with great truth, that we were establishing a new office and placing a lien on the taxable property of the people of this State to support that office. The view that I took of it at that time, and the view that I now take of it is, that we change the name of this officer and the method by which he shall be elected; that we give back to the people the power that they ought to have, the opportunity of selecting their own officers, and I say here, if this Convention refuses to limit the power of the Legislature to pass a law fixing a salary for this officer, the first Legislature will do it,—if the first Legislature does not do it, some other will,—if this Convention refuses to pass a limitation upon the compensation of this officer, it will be dragged through the next legislative halls, and it will be said that this Convention intended that he should receive more pay; that this Convention expressly declined to place him in the status in which the President of the Senate has always stood; they will say that he is a quasi Governor, a species of Governor, and that he has a big office, and that he is compelled by the people of Alabama to carry a biu and honorable title, and the people must give him the money along with the title to support him in respectability. The title is considerable compensation. In these days when the ordinary man in this country, and all of us are entitled only to the title of Colonel, they introduce and legalize a new title in this State, which will be a coveted honor. The man that gets this great office will be known from that time on as Governor, and will have the privilege of having it inscribed upon his tombstone, in order that posterity will know that he held this title. That is all the compensation that he wants.

MR. PEARCE—I desire to rise in favor of the amendment. I think the office of Governor in this State is a great responsibility, but I think it is a great mistake to create a demand for more Governors in this country considering the amount of gubernatorial material around here. Why, sir, there are hundreds of men in this State who would like to have the Governorship at the present price. I can show you a hundred in my county that would like to have it at the present figures. It is unnecessary and there is no call for the increase. At this price there has been a great political party in this country slaughtered trying to get this place, and consequently I favor the amendment.

MR. WADDELL—I rise to a point of order. The gentleman is not speaking to the amendment.

MR. PEARCE—Well I don't know why I am not. I insist, and state it as a fact, and it is a fact in straight language, and now I make a motion to take an aye and nay vote on the previous question. (Laughter.)

THE PRESIDENT—The question is on the amendment proposed by the gentleman from Jefferson to the minority report.

On a vote the amendment was adopted.

The Chair stated the question recurred upon the minority report of the Committee.

MR. deGRAFFENREID—I move that the minority report be laid on the table.

MR. REESE—On that I call for the ayes and noes.

MR. LONG (Walker)—I call for the ayes and noes.

MR. JONES (Montgomery)—I don't think my friend from Hale remembers that the gentleman who made that report has not had an opportunity to be heard, and I hope he will withdraw that motion.

MR. deGRAFFENREID—Yes, I withdraw for the purpose of letting him be heard and then I will renew the motion.

MR. VAUGHAN—I yield to the gentleman from Morgan.

MR. WHITESIDE—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. WHITESIDE—That the ayes and noes had been called for when the suggestion was made that the gentleman had the right to close the argument, and the vote should be taken.

THE PRESIDENT—It was called to the attention of the gentleman who made the motion to table, that the gentleman who

made the minority report has not been heard in advocacy of it, and he therefore withdrew the motion to table in order that the gentleman might be heard, and the author of the minority report yields to delegate from Morgan.

MR. PETTUS—I make the point of order that the motion cannot be withdrawn without the consent of the convention. The matter was in the possession of the convention.

THE PRESIDENT—The point of order is well taken. The question is shall the call for the ayes and noes be sustained.

The call for the ayes and noes was sustained.

MR. LONG (Walker)—I call for the reading of the amendment offered by the gentleman from Jefferson, which was adopted.

THE PRESIDENT—It will be read in due course.

The Secretary read Section seven as amended.

MR. PETTUS—Mr. President, I notice that the word "State" occurs before the word Auditor and Treasurer in this section, when it has been stricken out of all the other sections. I ask unanimous consent, to put that office in. The clerk may not have "State" before Auditor and Treasurer.

Objection was made.

MR. O'NEAL (Lauderdale)—I desire to call the attention of the Chair to the fact that Superintendent of Education was omitted from the minority report and desire to know if that is intentional or a clerical error.

THE PRESIDENT—The minority report speaks for itself.

MR. JONES (Montgomery)—The gentleman had leave, by unanimous consent, to put that office in. The clerk may not have heard it.

THE PRESIDENT — The Secretary's recollection is that leave was given to put in the words Commissioner of Agriculture and Industries, and State Treasurer.

MR. O'NEAL—And Superintendent of Education?

THE PRESIDENT—It is not so written here. The Chair does not entertain any amendments that are not in writing for the self preservation of this convention.

MR. VAUGHAN—I desire to answer Mr. O'Neal, and say that section of the Constitution never did have Superintendent of Education in it. The first section of the article has Superintendent of Education incorporated in it, but this section never did have it incorporated in it.

MR. O'NEAL (Lauderdale)—I simply arose for a matter of inquiry and that is satisfactory.

MR. OATES—I merely wanted the minority report read.

THE PRESIDENT—It has just been read in the hearing of the convention. Does the gentleman desire it read again?

There was no response, the Chair put the question on the motion to table the minority report, the yeas and noes having been called for. Upon the call of the roll, the vote was as follows:

AYES

Messrs. President,
Beddow,
Bethune,
Boone,
Brooks,
Burnett,
Carmichael, of Coffee,
Dent,
deGraffenreid,
Fitts,
Gilmore,
Graham, of Talladega,
Heflin, of Randolph,
Howell,
Inge,
Jones, of Bibb,
Jones, of Montgomery,
Lomax,
Lowe, of Jefferson,
MacDonald,
Merrill,
Morrisette,
Norwood,
Oates,
O'Neal, of Lauderdale,
Palmer,
Pitts,
Rogers, of Lowndes,
Sanders,
Selheimer,
Smith, of Mobile,
Smith, Morgan M.,
Tayloe,
Waddell,
Watts,
White,
Wilson, of Clarke,

TOTAL—37.

NOES

Almon,
Altman,
Ashcraft,
Banks,
Barefield,
Bartlett,
Beavers,
Blackwell,
Browne,
Bulger,
Burns,
Byars,
Carmichael, of Colbert,
Case,
Chapman,
Cobb,
Cofer,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Duke,
Eley,
Eyster,
Espy,
Ferguson,
Fletcher,
Foster,
Freeman,
Glover,
Greer, of Calhoun,
Greer, of Perry,
Handley,
Harrison,
Heflin, of Chambers,
Henderson,
Hodges,
Hood,
Howze,
Jackson,
Jenkins,
Jones, of Hale,
Jones, of Wilcox,
Knight,
Ledbetter,
Leigh,
Locklin,
Long, of Butler,
Long, of Walker,
Lowe, of Lawrence,
McMillan, of Wilcox,
Malone,
Martin,
Maxwell,
Miller, of Marengo,
Miller, of Wilcox,
Moody,
Murphree,
Opp,
O'Rear,
Parker, of Cullman,
Parker, of Elmore,
Pearce,

Pettus,	Sentell,	Vaughan,
Pillans,	Smith, Mac A.,	Walker,
Porter,	Sorrell,	Weakley,
Proctor,	Spears,	Weatherly,
Reese,	Spragins,	Whiteside,
Rogers, of Sumter,	Stewart,	Williams, of Barbour,
Sanford,	Studdard,	Wilson, of Washington,
Searcy,	Thompson,	Winn,

TOTAL—90.

ABSENT OR NOT VOTING

Cardon,	Kirkland,	Reynolds, of Chilton,
Carnathan,	Kyle,	Reynolds, of Henry,
Foshee,	McMillan, of Baldwin,	Robinson,
Graham, of Montgomery,	Mulkey,	Samford,
Grant,	NeSmith,	Sloan,
Grayson,	Norman,	Sollie,
Haley,	O'Neil, of Jefferson,	Willet,
Hinson,	Phillips,	Williams, of Marengo,
King,	Renfro,	Williams, of Elmore,
Kirk,		

TOTAL—28.

So the motion to table was lost.

MR. PETTUS—I desire to offer an amendment to the minority report.

The amendment was read as follows:

Amend Section 7 of the minority report by striking out the word "State" where it occurs respectively before the words "Auditor" and "Treasurer" in the first line of said section and inserting the words "Superintendent of Education" after the word "General" in the second line of said section.

MR. PETTUS—The reason I move to strike out the word "State" before "Auditor" and "Treasurer" is simply to be in harmony with the rest of the Constitution. That word has been stricken out in the preceding sections. Then the office of Superintendent of Education being a Constitutional office, I think should be within the prohibition of not having his salary increased.

MR. PROCTOR—I offer a substitute.

THE PRESIDENT—The minority report is an amendment and a delegate has moved to amend that amendment, and another amendment, in the opinion of the chair, would not be in order at this time. An amendment to an amendment is as far as we can go.

MR. PROCTOR—Can I not offer a substitute for the amendment?

THE PRESIDENT—The gentleman cannot offer an amendment to an amendment to an amendment. An amendment to an amendment seems to be as far as the rule will extend. A substitute in parliamentary law is merely an amendment.

MR. ASHCRAFT—I notice that the word "Treasurer" is not in this section of the minority report. I would like to ask if it has been amended so as to include the word "Treasurer."

MR. PETTUS—By unanimous consent, while Mr. Lomax was in the chair, that was done.

MR. ASHCRAFT—I understand the chair to say that nothing should be entertained that was not in writing.

THE PRESIDENT—It was in writing.

MR. ASHCRAFT—Very well, then.

A vote being taken, the amendment of the delegate from Limestone was adopted.

MR. PROCTOR—I notice in the amendment offered by the delegate from Limestone he omitted the words "Commissioner of Agriculture and Industries."

THE PRESIDENT—That is already in the section.

MR. BURNS—Mrs. President—

THE PRESIDENT—The gentleman from Dallas. Does the gentleman propose to amend the minority report?

MR. BURNS—Yes, sir.

The amendment was sent up and was read as follows:

Amend by inserting after the word "salary," "and per diem."

A vote being taken, the amendment was lost.

MR. VAUGHAN—I now move the adoption of the minority report.

MR. JONES (Montgomery)—As the chairman of the committee who made this report, and of which, it seems, if I heard their votes aright, the majority voted against it, I will not now say that I speak for the committee, but I beg to make one appeal to this convention for this office. I am sure that no man who hears my voice can imagine there is any motive on earth except the good of my State and the honor of its people, which induces me, after what seems to be an overwhelming vote against the proposition embodied in the majority report, to ask delegates to pause a little while, before they make up their minds.

There are some occasions, Mr. President, when a man may be pardoned for speaking of personal experience. It is known to members on this floor that for four years I had the honor to hold that office. Like many others, the office out of possession seemed to be a thing to strive for and to sacrifice for, and worth more than the prize when in possession. For four years, I endured, what I believe every man of moderate means who ever held the office endured—a life to some extent of humiliation. Fellow delegates, under the present salary, you cut out four-fifths of the best men of this State for aspiring to the Governor's office. The office, year after year, has become less attractive to the young men and to the old men of Alabama. We have seen, year after year, its gifted and bravest and best sons seeking seats in Congress, or employment in other political pursuits, where the pay was greater. They could not live on honor alone. Let us stop and think a little, and see if the people—the hill billies about whom so much has been said—would condemn or censure if we passed this ordinance. There is hardly a day in the Governor's experience that some poor woman, often with a child at the breast, does not come to him to appeal for a pardon. Some times she is sent here by subscription from her neighbors, who give her just enough to come here. When she bids you good bye, it may be with tears in her eyes, she says, Governor, I have no place to go tonight, can't you help me? What man could resist such an appeal? Many a time, if it had not been for the kindness of Dave Fleming, when my own means were exhausted, poor people who came here to ask for pardon and for mercy, would have been turned out on these streets at night, because I had neither the private fortune nor contingent fund to help these unfortunates who came here to ask mercy from their State. Fellow delegates, I may be pardoned for mentioning some other experiences. Just at the close of my term, I was invited to Mobile to attend the ceremonies about the cruiser Montgomery. I knew they did not want Tom Jones, but they did want the Governor of this State. The people of Mobile were as kind to me as people could be. I had an elegant suite of rooms. I was the guest of the city. There was much hospitality tendered me by naval officers and strangers for the sake of Alabama. I was bound to return, for I revered the office and had respect for those I represented. My salary for the month of November was $250 and my expenses $278. Fellow delegates, many a time letters of introduction are brought to the Governor of Alabama from other Governors, or distinguished men, asking some attention for honored visitors. Time and time again oppressed by lack of means as Governor of Alabama, I heaved a sigh when such demands came, and there was temptation, straightened as I was, not to act the host as became my high office. But love of my people said no—and for the sake of Alabama I did what I could ill-afford. Fellow delegates, you need not be afraid of our people. We have, as some say, dis-

franchised the Governor. We have said to him, you are in office for four years, you shall hold no office after that for one year, Senate nor anything else. Will the people of Alabama blame us, will they not approve us, when we say, under those circumstances, we will give your Governor money enough, if he is a poor man, that he can live decently, and we won't be ashamed of him.

I remember, Mr. President, a visit of Governor Holliday of Virginia. He came to Montgomery one summer, some years ago. I had known him during the war, a splendid old Virginia gentleman he was. I said to him: "Governor, there is nobody at home. I am up on the hill where it is cool. You had better come up and stay with me tonight." He replied, "I am sorry, but I have accepted the hospitality of the Governor of Alabama." I saw him next morning. He looked thin and worn. He quietly said he had not slept a wink that night at the Exchange Hotel, and the next time I come to Alabama, I won't accept the Governor's hospitality.

Do we want to put our Governor in that attitude? Don't the people of Alabama have respect for the office? Isn't he the man who can appoint a Chief Justice, appoint a Senator, put all of you under arms, who is President of your colleges, whose voice and will is equal to one-half of all the Senators and Representatives? Does not he typify your dignity, power and majesty. Isn't there a feeling about this, like that a boy has about his sweetheart or a man about his wife, when he likes to see her dress well and wear flowers? Isn't there something in this besides dollars and cents? Gentlemen, I don't believe, on any stump in Alabama, when this issue is fairly made, that you will find one hill-billie in ten who would not say, thank God you have at last done something to sustain the honor and dignity of this office which belongs to us.

It has been urged that the Constitution has never undertaken anything like this. My friend from Walker (Mr. Long) is mistaken. In the Constitution of 1875, when we were just recovering from the horrors of reconstruction, he will find a provision requiring the legislature, at its first session after the adoption of this Constitution, to reduce the salaries 20 per cent.

DELEGATE—Twenty-five per cent.

MR. LONG—My statement was that it was not fixed in any Constitution since 1819.

MR. JONES—I understood the gentleman to say that the principle as to increase or decrease, or commands as to what the General Assembly ought to do had never been in the Constitution. Are we in the condition today, Mr. President, that Alabama was in 1875? Is Alabama just emerging from ruin and desolation? Will we have it go out to the world that we are unwill-

ing to pay any more salary to keep up the dignity and power of this office, that we did in our days of poverty and despair? We are entering into a new era. Our State is rich, we will be richer. We prosper and will prosper. We will honor ourselves, and we will honor our State, if, in this instance at least, we increase this salary. I am not speaking for any man. When this ordinance was introduced and reported by the Committee, I had hoped, if it passed that, it would benefit and comfort the dear and gentle and wise man who sleeps today at Opelika, but Mr. President, it is not the man, it is the office for which provision should be made. All our hearts are touched by the loving demonstrations we have witnessed in honor of the noble soul whose remains lay here, in our loving care yesterday. He deserved as an individual all the tributes that had been paid him. But after all, was not the grief, the solemnity, tinged with a deeper feeling, because two millions of people had lost their Chief Magistrate? I trust delegates will think this matter over and not shrink from the duty of declaring now, and for all time, that the Governor shall have a salary which will comport with his needs and the honor and the dignity of the State, and put it in the Constitution that Alabama desires every intelligent son of hers, who is fit to aspire to the office, to have the opportunity to do so, whether he is rich or poor. It is right. It is just. It is wise. Why not do it?

MR. OATES (Montgomery)—I have no idea that anything I can say will change the opinion of any delegate on this floor, but as I introduced an ordinance which went to this Committee and in substance is embodied in their report and into the Constitution, I do not wish to shirk the responsibility of being in the minority if such be the fact, but to stand for whatsoever I do. I have been but for half the length of time of my friend, the distinguished delegate from Montgomery, (Mr. Jones) in a position to know about the salary of Governor, but during those two years I did learn something about it, and I propose briefly to give these delegates something of my observation and experience in that matter. Go back to the condition of this State, when there were less than half a million of white inhabitants. There were 530,000 inhabitants in the beginning of the war of '61, and prior to that time there were less than half a million, though they made the salary of their Governor $4,000 a year, and it stood at that figure until the Convention of 1875, and then because of the poverty-stricken condition of the State, which had been afflicted with carpet-baggery and a good many counties rendered insolvent, and the State itself which had never made default in the payment of interest on bonds it owed, or in any other respect, and in fact during the war absolutely ran cotton through the blockade to pay the interest on its bonded debt held in Europe, was unable to pay, and made default, and its bonds were hawked about at

about 30 cents on the dollar, and in the presence of that condition of things it was that the Convention of 1875 passed an ordinance to reduce the salary of the Governor and all other State officers, including judges, 25 per cent., and in that way the Governor was cut down to $3,000 a year. Now what is our condition? Here we have more than 1,800,000 people. We have $265,000,000 taxable property, three times as much as we had when we paid the Governor $4,000 a year, and yet gentlemen object to making his salary $5,000. Compare the condition of Alabama with other States. Take old Virginia, the Mother of States and statesmen, and they give their Governor a four years term and $5,000 a year and furnish him a mansion to live in, and today Alabama has more wealth than old Virginia, and are we to pursue this parsimonious practice? Why, gentlemen, I heard it said in the Convention in 1875, I heard similar declarations to what I have heard today, that you could get men, numbers of them, to take the office for less than the salary. Why, I can go out and find them by the score, those who would take the office for $500. We had better, if that is the way to select a Governor, simply let out the office of Governor to the lowest responsible bidder. (Laughter.) We can get enough men, I guess, to take it at $250. We want a man as Governor who will command the respect of the whole people, who will attend to his duty as such high officer in a manner that will be becoming to him and which will make his people feel a pride in seeing the office thus executed. My friend the delegate from Montgomery, properly alluded to the fact that the Governor is expected to contribute to charity, more largely, more universally, than any other ten men, though they be officials in the State of Alabama. If the Governor don't contribute something to every poor body that comes along and asks it, why what is said and thought? They go away utterly disappointed and say, "My God, what sort of a Governor—he would not even give me a dollar." They are expected to thus contribute and it takes a large amount. If he does it with any kind of liberality it cuts his salary to $2,000 a year; and in this city how can a man support his family and live in any kind of style even upon $3,000, and is not the Governor of our great State expected to entertain friends and officials sometimes. Why Governors of other States do that, and it is a proper thing for him to do in reason. Well then again, our Governor may be a poor man. The one whom we have but recently lost, a most excellent gentleman, a man of splendid capacity was, I am informed, in that category. He was a poor man come here to live with a family to support on $3,000. Was he able to rent an expensive mansion and maintain it? No sir, he found a place in a boarding house and not a first-class one at that, because he was unable, his salary would not warrant his paying the price. Why, sir, is that the way for Alabama to treat her Governor? Then, again, visitors come here,

and as this is the Cradle of the Confederacy and the Capitol at which the first Confederate Congress met, and where the Confederate President was inaugurated, they come here from New England, and everywhere else, and come up to the Capitol and ask naturally of the guide where is the Governor's office, we would like to see him very much, to meet him. The guide takes them around into the Governor's office to show them the office, and when they get around in there they see him in a little 12x14 room like a half-grown bear, and there is the Governor of the great State of Alabama. Ah, I tell you, gentlemen, it marks a stinginess in our people that is unwarranted. Demagogism has prompted men on the stump to say time and again, "Ah, we won't pay large salaries," and yet expect the best class of men to give their services to the State through mere patriotism. It is true the honor is great because the office of Governor is the highest in the gift of the people in our State and it ought to be honored. It is not for this purpose that report is made, to make it a money getting institution. You take any man of first class ability, as nearly all lawyers are—they are most usually the men elected Governor,—and where is one who goes into the practice and labors at his desk but makes that much and more by his profession. Now why is it necessary to incorporate it in the Constitution? I don't believe that the delegates in this convention are disposed to vote that down because they dislike to give the Governor that salary. That is not the reason, that is not it at all, it is because they do not like the precedent of fixing a salary in the Constitution. That is it. Gentlemen, I know you are patriotic and intelligent and you do not want your Governor cramped as he is now, but you want to show him more liberality. You will, I believe, before this convention adjourns direct the General Assembly as soon as practicable to provide a decent mansion as a residence for your Governor, but you do not like the principle of incorporating it in the Constitution. Wherefore should it be? Because your legislators will not do it. That is the reason. They have had twenty-five years, and where has any progress ever been made in that direction? None at all. Will it be, if you relegate it to your Legislature? There it will stay right where it is. There will be plenty of them will say, Oh, well he ought to live on the honor. Well gentlemen, it is elevating in our State when we show proper respect for this highest of our offices. If you are afraid of the money, cut down the salary—though they be low—of some other officials rather than keep your Governor groping along in this way. The Chief Justice of your Supreme Court gets $600 a year more salary than the Governor of your State, and that is probably not enough. The President of the Railroad Commission gets $500 more than your Governor. Why is it that he is of so much more importance? The Associate Railroad Commissioner gets as much as the Governor. Every solicitor in the State gets as much, every solicitor that goes around

and prosecutes in the courts gets as much pay as your Governor. It is simply ridiculous and I tell you that if you rely upon the Legislature it will not be done. It is safe to judge the future by the past and when men have been tried for twenty-five years and have not done the necessary and proper thing, why risk it any longer. I have seen nothing in this report, and I presume there will be nothing in any other that attempts to fix the salary of any but this officer, the highest in the gift of the people and the honor that any and every citizen in the State would like to have and properly so. I hope that the delegates in this convention will individually take it unto themselves and consider the necessity for this and the reasonableness of it, and adopt it.

MR. BLACKWELL—The arguments made by the distinguished gentleman from Montgomery could well have been reserved for the Legislature when it next assembled in the Capitol of Alabama. Individually I am in favor of increasing the Governor's salary. Individually I am in favor of giving the Governor $5,000 a year, but this great State that the gentlemen have presented here this evening is made up of people. It is not the character of the land that Alabama has that constitutes her chief greatness. It is not the mineral wealth that Alabama has that constitutes her chief greatness. It is not the 11,000 square miles of coal lands that Alabama has that constitutes her chief greatness, but it is the people of the State of Alabama that constitute her greatness, I want to know who presented this question to the people in the campaigns for the Constitutional Convention and who said to them that one of the duties they expected to perform as a delegate to this convention was to fix a salary at five thousand dollars a year?

MR. OATES—If the gentleman will allow me, I was one. I made seventeen speeches and advocated it on the stump each time and was usually applauded.

MR. BLACKWELL—How many more made it? The only time we have heard the question discussed as to what the Governor's salary should be was in 1875 when the Governor was paid $4,000 a year, and as a matter of fact the only expression given by the people was that they desired a reduction of salaries and in obedience to the demands of the people that salary was reduced 25 per cent. I am perfectly willing to go before the people and say that the Governor should have what these gentlemen say now. I am willing to risk the people to do right in the matter.

MR. JONES—Won't this Constitution go before the people?

MR. BLACKWELL—Yes, and I don't want to load the Constitution down with things that the people haven't considered or expressed themselves on, or wherever they have said anything

about it, have been opposed to it. I don't want to go before the people with a Constitution loaded down with such things and jeopardize the success of this Constitution that will relieve them of negro domination. I want as few things put in here as possible that the people themselves can settle at the polls. If the gentlemen are so certain that the people of Alabama will not object to this measure, why not wait and let that be made an issue in the campaign before the people, and hear the voice of the people direct rather than by proxy. It seems to me we want to put just as few things in that Constitution as it is possible to put in that Constitution that may endanger its success. If the gentlemen are satisfied that the sovereign people of Alabama favor this idea, why put it in the Constitution? Don't you believe that any member of the Legislature, if there is a constituency behind him that wants this thing, will readily carry it out. It is not that I am opposed to the measure personally that makes me object to it, but it is the fact that the people have given me no authority or instruction to do any such a thing as this.

MR. O'NEAL—Is it not a fact that provisions of a similar character to this are found in many of the Constitutions of the other States?

MR. BLACKWELL—Yes, sir, I do not entertain that objection to it that I don't want it in the Constitution, as the gentleman assumes, but I want the people to express themselves on it, and I want to know whether they want it put in the Constitution before I am willing, as their representative, thus to act for them. My people have certainly had no discussion on this matter. My people have certainly expressed no opinion on this matter. My people say they want reductions wherever they can be made, and we are pledged to have no increased rate of taxation. If we go on and increase the salaries of officers, where are we going to get the money to pay the increase except by taxes upon the people. And yet, if the people want to increase it, they have a right to do so, and you say the people would be willing to do it. Then why not submit the question to them and not speak for them when they have not authorized it, but ask them and let them say whether or not they want it. I know Alabama is great enough to do this if she wants to do it, but the people have a right to speak on the matter, and, therefore, I am opposed to putting it in the Constitution as their representatives, and it seems to me that these appeals which the gentlemen are now making should be made to the Legislature, and if it is so important and the people can be made to see it, it would be made an issue in the next campaign and the Governor can have the full benefit of it if the people of Alabama are willing he should have it, and I, for one am willing he should have it.

MR. GREER—I move the previous question.

A vote being taken, the main question ordered, and a further vote being taken on the motion to adopt the minority report, the yeas and nays were demanded and the roll call resulted as follows:

AYES

Almon,
Altman,
Ashcraft,
Barefield,
Bartlett,
Beavers,
Blackwell,
Browne,
Bulger,
Burns,
Byars,
Carmichael, of Colbert,
Case,
Chapman,
Cobb,
Cofer,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Duke,
Eley,
Eyster,
Espy,
Ferguson,
Fletcher,
Foster,
Freeman,
Glover,
Greer, of Calhoun,
Greer, of Perry,
Handley,
Harrison,
Heflin, of Randolph,
Henderson,
Hinson,
Hodges,
Hood,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Hale,
Jones, of Wilcox,
Knight,
Ledbetter,
Leigh,
Locklin,
Long, of Butler,
Long, of Walker,
Lowe, of Lawrence,
McMillan (Wilcox),
Malone,
Martin,
Maxwell,
Miller (Marengo),
Miller (Wilcox),
Moody,
Murphree,
Opp,
O'Rear,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Pillans,
Porter,
Proctor,
Reese,
Rogers (Sumter),
Searcy,
Sentell,
Sloan,
Smith, Mac. A.,
Sorrell,
Spears,
Spragins,
Stewart,
Thompson,
Vaughan,
Walker,
Weakley,
Weatherly,
Whiteside,
Williams (Barbour),
Wilson (Washington),
Winn,

TOTAL—88.

NOES

Messrs. President,
Banks,
Beddow,
Bethune,
Boone,
Brooks,
Burnett,
Carmichael, of Coffee,
Craig,
Dent,
deGraffenreid,
Fitts,
Gilmore,
Graham, of Montgomery,
Graham, of Talladega,
Howell,
Howze,
Inge,
Jones, of Montgomery,
Lomax,
Macdonald,
Merrill,
Morrisette,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
Palmer,
Pitts,
Rogers (Lowndes),
Sanders,
Sanford,
Selheimer,

Smith (Mobile),	Tayloe,	White,
Smith, Morgan M.,	Waddell,	Wilson (Clarke),
	Watts,	

TOTAL—41.

ABSENT OR NOT VOTING

Cardon,	Kirkland,	Reynolds (Chilton),
Carnathon,	Kyle,	Reynolds (Henry),
Foshee,	Lowe, of Jefferson,	Robinson,
Grant,	McMillan (Baldwin),	Samford,
Grayson,	Mulkey,	Sollie,
Haley,	NeSmith,	Studdard,
Heflin, of Chambers,	O'Neill (Jefferson),	Willett,
King,	Phillips,	Williams (Marengo),
Kirk,	Renfro,	Williams (Elmore),

TOTAL—26.

So the minority report was adopted.

MR. JONES (Montgomery)—I move the previous question on the section as amended.

A vote being taken, the main question was ordered and a further vote being taken the section as amended was adopted.

MR. JONES (Montgomery)—I move the adoption of Section 8 and on that I call for the previous question.

Section 8 was read as follows:

"Section 8. The Governor shall take care that the laws be faithfully executed."

A vote being taken the main question was ordered and a further vote being taken the section was adopted.

MR. JONES (Montgomery)—I now move that the Convention adjourn.

MR. REESE—I ask the gentleman to allow me to offer a resolution so as to have it referred to the Committee on Rules.

MR. JONES (Montgomery)—I will withdraw the motion to adjourn if you will renew it after you offer your resolution.

MR. REESE—Very well.

Resolution 146, by Mr. Reese:

Resolved, That hereafter, when members shall come into the Convention, after the roll call, their presence may be noted by the Secretary, upon their personal application, without interrupting the Convention proceedings.

MR. deGRAFFENREID—I move that the rules be suspended and that resolution be adopted now.

A vote being taken the rules were suspended and a further vote being taken the resolution was adopted.

MR. REESE—I now renew the motion made by the delegate from Montgomery.

A vote being taken the motion was carried, and the Convention adjourned.

CORRECTIONS

On second page of proceedings nineteenth day in latter part of inquiry by Mr. Sanford transpose "it is" to "is it" so that inquiry will read as follows:

Is it not a fact that this is a limitation upon the rights of the people to vote for any man they please for any office, and, therefore, is it not a disfranchisement of the people so far as that is concerned?

The point of order made against the amendment of Mr. Brown, that it had already been offered by the delegate from Walker and had been passed by the House which was attributed to Mr. Brooks, was made by some other delegate.

Mr. Brooks' sentence in reference to Mr. Browne's amendment should read, "You can offer an amendment to an amendment but you cannot at the same time offer another amendment to another point of the section.

TWENTY-FIRST DAY

MONTGOMERY, ALA.,

Saturday, June 15, 1901.

The convention met pursuant to adjournment, was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Gay as follows:

Our Father and our God, we praise Thee for Thy manifold blessings upon our State and nation. We praise Thee for the health and strength, for the desire to look to Thee as the author and furnisher of our faith, the giver of every good and perfect gift. We pray Thy blessing upon this assembly today. Grant O God to imbue this presiding officer with Thy wisdom, discre-

tion, judgment and bless these who have the sacred trust given to them with that wisdom and that justice and that love of country which shall make them to be honored and honorable, and we pray Thee our God that thou wouldst bless our homes. Bless, we pray Thee, this State, Grant to direct us to Thy glory in all things, we ask it for Christ sake, Amen.

The roll was called and disclosed the presence of a quorum.

LEAVES OF ABSENCE

For Yesterday and Today—Mr. Kirk (Colbert).

For Today — Messrs. O'Neill (Jefferson), Ashcraft, Lowe (Lawrence), Thompson, Howell, Miller (Wilcox), Burnett, Reese, Foshee, Malone.

For today and Monday—Messrs. Jones (Wilcox), Miller (Marengo).

For Monday—Parker (Elmore), O'Rear.

MR. HEFLIN (Randolph)—I rise to a question of personal privilege.

THE PRESIDENT—The gentleman will state the question of privilege.

MR. HEFLIN (Randolph)—I am reported, by yesterday's stenographic report of the proceedings, as having voted on the ordinance seeking to increase the Governor's salary, from three to five thousand dollars, in favor of the minority report, and against the majority report, when I really voted for the majority report, and against the minority report, and I therefore ask that it be corrected.

THE PRESIDENT—The Secretary informs the Chair that the journal shows that the gentleman voted in favor of the majority report, and the stenographer will be instructed to make the correction.

MR. LONG (Walker)—I rise to a question of personal privilege. In The Advertiser today there is a serious reflection, and insult as I consider it, to a majority of this convention, and as a member of that majority I wish to read some extracts from that paper, and I also have a resolution which I desire to offer.

MR. JONES (Montgomery)—I object. We have all seen that and it is mere newspaper criticism.

MR. LONG (Walker)—I insist upon my question of privilege.

MR. PETTUS—I rise to a point of order. The gentleman is not addressing himself to a question of personal privilege. There is nothing personal in it.

MR. LONG (Walker)—That is for this convention to determine. It is a question of the highest personal privilege. When a body of men by an editorial in a Democratic newspaper, is referred to as a set of cowards, and as lacking timidity, and honesty of purpose—

THE PRESIDENT—The gentleman will be in order until the Chair rules on the question of privilege. In the opinion of the Chair the question is not a question of privilege, and the point of order will be sustained.

MR. LONG (Walker)—As much as I hate to do it, I am compelled to appeal from the decision of the Chair to the majority of this Convention. It is a question of the highest privilege, that the majority of this convention have been grossly insulted, by an editorial, that needs no explanation on this floor by the representatives of the people of Alabama.

THE PRESIDENT—The gentleman from Walker appeals from the decision of the Chair, and the question is shall the decision of the Chair be sustained.

Upon a vote the decision of the Chair was sustained.

MR. HINSON—I move that the privileges of the floor be extended to the Hon. Richard H. Clarke of Mobile.

There being no objection, the privileges of the floor were so extended.

MR. DUKE—On yesterday, I asked for and obtained leave of absence for Mr. Robinson of Chambers, for yesterday and today. I notice in the stenographic report, that he is reported to have been granted a leave of absence, and it says "tomorrow," meaning today. It should read for today and tomorrow, and if the journal has it—

THE PRESIDENT—Does the gentleman mean for today and Monday? Tomorrow will be Sunday.

MR. DUKE—No sir, I mean what I said. The stenographic report says for "tomorrow." This was on yesterday, and I asked for the leave of absence for yesterday and today. The stenographic report says he was granted leave of absence for "tomorrow," meaning today; it should read for "today and tomorrow," that is yesterday and today, and if the same mistake occurred in the journal I ask to have it corrected.

THE PRESIDENT — The Journal shows the request was granted in accordance with the recollection of the gentleman from Chambers, and the stenographic report will be corrected accordingly.

MR. deGRAFFENREID—I ask unanimous consent to be allowed to introduce a resolution at this time, that it may be read and referred to the proper committee.

Resolution 146, by Mr. deGraffenreid:

Resolved, That after next Monday this convention shall meet, regularly each day at 10 o'clock in the morning and shall remain in session from that time to 1 o'clock p. m. when a recess shall be taken to 3 p.m., and the convention shall remain in session until 5 p.m., when the convention shall stand adjourned until 10 o'clock a.m. of the succeeding day.

Referred to Committee on Rules.

MR. LONG (Walker)—I ask unanimous consent to introduce a resolution.

MR. JONES (Montgomery)—May I inquire of the gentleman what it is about.

MR. LONG (Walker)—I give the gentleman the right to object if he wants to, but I decline to tell him what it is about.

MR. JONES—I object.

MR. LONG (Walker)—Then I move that the rules be suspended, and that I be allowed to introduce this resolution. This privilege has been accorded to other members on this floor.

THE PRESIDENT—The gentleman will be in order. The gentleman from Walker moves that the rules be suspended in order that he may introduce a resolution.

The rules were suspended.

Resolution No. 147, by Mr. Long (Walker):

Whereas, there appears in The Montgomery Advertiser of this State an editorial reflecting upon the honesty of purpose of a majority of this convention.

Therefore. Be it resolved that this Convention hereby condemns said editorial as unjust and unwarranted, coming, as it does, from a Democratic newspaper that prints subsidized $70 per day resolutions of the proceedings of this convention.

MR. WATTS—I move to lay it on the table.

Seconded.

MR. deGRAFFENREID—For that purpose I move a suspension of the rules in order that the resolution may be laid upon the table.

The rules were suspended, and upon a viva voce vote being taken on the adoption of the resolution, a division was demanded and had.

MR. LONG (Walker)—I ask a verification of the vote by the ayes and noes.

MR. O'NEAL (Lauderdale)—I make the point of order that the gentleman is too late.

THE PRESIDENT—It is too late to call for the ayes and noes in the opinion of the chair.

MR. LONG (Walker)—I move for a verification of the vote by ayes and noes.

MR. PRESIDENT—In the opinion of the chair it is too late for the gentleman to call for an aye and no vote after the chair has stated the question, and the Convention has voted, and the result has been announced.

MR. GREER (Calhoun)—Is it too late to ask for a verification? I ask for a verification of the vote.

MR. LONG (Walker)—I respectfully refer you to the rule that gives any member the right to call for an aye and noe vote, before the announcement of the vote.

THE PRESIDENT—The gentleman will please refer me to the rule.

MR. LONG (Walker)—I read rule thirty-six. The ayes and noes shall only be ordered when the call therefor is sustained by thirty delegates.

I do not know in the absence of any rule anything to prevent a member on the floor from calling for an aye and no vote. It would be nothing but right and proper that an aye and no vote be recorded whenever called for. I do not desire to be obstreperous in this matter, but it does seem to me that it is a simple matter of common justice, and if thirty members on this floor want an aye and no vote they should have it.

THE PRESIDENT — Rule thirty-six says: The ayes and noes shall only be ordered when the call therefor is sustained by thirty delegates.

MR. BROWNE—I make the point of order that a call for the ayes and noes is not a motion, and is always in order before the vote is announced, whether the vote is by division, or whether it is viva voce.

THE PRESIDENT—In the opinion of the Chair, when the Chair stated the question before the house, it would have been in order for any member to have moved for an aye and no vote,

but no member made such a motion, and the Chair stated the question, and a vote was taken, and then a division was called for, and the chair put the question upon the call for the division, and that question was put and voted upon and the result of the vote was announced. In the opinion of the Chair it is then too late to call for an aye and no vote.

Upon casting up the vote it appears there are fifty-four ayes and thirty-seven noes, and the motion—

MR. GREEN (Calhoun)—Mr. President, I ask for a verification of the vote.

THE PRESIDENT—The Chair is asked for a verification of the vote. As many as favor the adoption of the resolution—

MR. BROWNE—Mr. President, I call for the ayes and noes upon the verification.

THE PRESIDENT—The Chair has ruled a call for the ayes and noes is not in order. If the gentleman desires to have the call for a division taken over again, the Chair will state the question.

MR. GREER (Calhoun) — I would like to have the vote verified Mr. President.

THE PRESIDENT—How does the gentleman wish it verified.

MR. GREER—I do not know how it can be done except by an aye and no vote, but if the Chair rules otherwise, I ask that it be done by a rising vote.

MR. O'NEAL (Lauderdale)—I make the point of order that the gentleman's motion is simply in the nature of an appeal from the decision of the Chair.

MR. GREER (Calhoun)—I do not wish to be understood as appealing from the decision of the Chair.

THE PRESIDENT—Has the gentleman any reason to believe that the secretary has not counted the vote correctly?

MR. GREER (Calhoun)—I think there is some mistake as to the vote, Mr. President, but I do not say it is on the Secretary.

THE PRESIDENT—Does the gentleman claim there is a mistake in the count, or does the gentleman think that upon a second vote some member may change his vote?

MR. LOMAX—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. LOMAX—I submit that unless the vote is taken by the yeas and nays, there is no means provided by which a verification of the vote can be had.

MR. OATES—I am not in sympathy with the motion at all, but the Chair will remember when the rules were reported I made inquiry on this point. The Chair may not remember it, but I think some of the members will, and it is certainly the practice, and I think the parliamentary rule, that the ayes and noes may be demanded, and that is the highest verification that can be taken. I know that is the universal practice in Congress, under the code of laws which is recognized by that body, and made the code in this country.

As I stated the universal practice in Congress of the United States, and under Barclay's Code which is adopted by that body and is incorporated into its rules, is that the yeas and nays may be taken as the highest verification of a vote at any time. For instance, just as here, a division was called for by the delegate from Walker, and the members arose pro and con, and were counted, but that is always considered, or may be considered as doubtful, and the ayes and noes may be demanded, even when the result is announced by the Chair, if the demand is made at once before any other proceedings be had. While I differ with the Chair, I do it most respectfully, and do not rise for the purpose of taking any appeal, but I think that on reflection the Chair will see that the rule is susceptible of this construction and is the better one in our practice. It will eliminate much trouble that many arise in future votes.

MR. JONES (Montgomery)—I hate to take up the time on what seems to be an unimportant matter, but I think the Chair is eminently right. When a vote is taken and disputed then the vote must be ascertained in the way in which it was originally taken. If it is by viva voce, and there is a call for a division, the members can stand up, or they can appoint tellers, but it is too late after a vote is gone into in one way then to change it to an aye and no vote, and I think the Chair is right.

THE PRESIDENT—In the opinion of the Chair, when the proposition is stated to the Convention, any delegate may demand an aye and no vote, if the call is sustained by the convention, but after the question is submitted to a viva voce vote it is then too late upon that proposition to call for an aye and no vote. After a division is called for if any gentleman challenges the correctness of the vote, then it is the duty of the Chair to submit the question for a verification, but the chair does not feel bound to submit the question for a verification of a vote simply in order that the advocates of a measure may secure another vote, because that demand might be continued indefinitely. As soon as we verified the vote, it might be claimed that that was not correct, and an-

other verification demanded. The gentleman did not challenge the correctness of the vote and therefore the Chair does not feel authorized to submit the question for a verification.

MR. HARRISON—I desire to offer a privileged resolution.

MR. LONG (Walker)—I make the point of order that it cannot be done at this time, Mr. President. There is a question before the House. I make the point of order that it is out of order at this time.

MR. HARRISON—It is simply fixing the time to which the House will adjourn.

THE PRESIDENT—I have not heard the resolution. The Secretary will read it.

The resolution was read:

Resolved that when this Convention adjourns it adjourn to meet at 12 o'clock on Monday.

THE PRESIDENT—What is the point of order made by the gentleman?

MR. LONG (Walker)—I withdraw it. I have no objection to the resolution. I do not want to take up time on it.

THE PRESIDENT—The Chair will state that in the opinion of the Chair a question of this kind is one of the highest privileges and is in order.

A vote being taken the resolution was adopted.

MR. EYSTER—I ask unanimous consent for the introduction of a resolution.

The resolution read as follows:

Resolution No. 149, by Mr. Eyster:

Resolved, That the courtesies and privileges of the floor of the Convention be extended to the Hon. William B. Jelks, Governor of Alabama; Charles E. Waller and E. M. Robinson.

Rules suspended and resolution adopted.

MR. GREER (Calhoun)—I move to amend by adding the name of the Hon. Charles E. Waller of Hale.

I move to amend by adding the name of Hon. Richard H. Clarke of Mobile.

MR. BURNS—I thought the motion was to suspend the rules to put the resolution in regard to Governor Jelks; that was the motion, to suspend the rules in order to act upon the motion to allow Governor Jelks the privilege of the floor. It was not for the amendment.

THE PRESIDENT—Does the gentleman make a point of order against the amendment?

MR. BURNS—I do.

THE PRESIDENT—In the opinion of the Chair the point of order is well taken.

Upon a vote the rules were suspended.

MR. GREER (Calhoun)—Now I move to amend by adding the name of the Hon. Charles E. Waller of Hale.

MR. BURNS—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. BURNS—The rules have been suspended for the specific purpose of voting on the question whether W. D. Jelks shall be entitled to the privileges of this floor, and that is the reason for the suspension of the rules, and it is not open to amendment.

THE PRESIDENT—In the opinion of the Chair the rules are suspended for the purpose of considering that resolution, proposed by the gentleman from Morgan, and that resolution being before the Convention it is open to amendment, and the point of order is overruled.

MR HEFLIN (Chambers)—I understood that the gentleman from Monroe moved that the privileges of the floor be extended to the Hon. Richard H. Clarke of Mobile.

THE PRESIDENT—That order has already been made.

MR. HEFLIN (Chambers)—Then I move to amend the resolution by adding the name of Hon. Edward M. Robinson of Mobile, who is an ex-member of the Legislature.

The amendment was adopted, and upon a further vote the amendment of the gentleman from Calhoun (Mr. Greer) being adopted, the original resolution, as amended, was adopted.

MR. O'NEAL (Lauderdale)—I ask unanimous consent to offer a resolution.

Objection is made by Mr. Pettus.

THE PRESIDENT—The next order of business will be the report of the Committee on the Journal.

MR. O'NEAL (Lauderdale)—I ask that the rules be suspended and that leave be granted me to offer that resolution. I make a motion to that effect.

THE PRESIDENT—The gentleman from Lauderdale moves a suspension of the rules.

The motion to suspend the rules was lost.

MR. HEFLIN (Chambers) — Before the Committee on the Journal report I rise to a question of personal privilege.

THE PRESIDENT—The gentleman will state the question of privilege.

MR. HEFLIN (Chambers)—On yesterday I voted for the adoption of the minority report of the Committee on Executive Department of this State. This report was offered by the gentleman from Dallas. The stenographic report has me among those not voting or absent, and it has my brother taking the place that my name should appear in, on the side of the people, and not on the timid side.

MR. HEFLIN (Randolph)—I rise to a question of personal privilege.

THE PRESIDENT—The gentleman will state the question of privilege.

MR. HEFLIN (Randolph)—I just want to state to the Convention that I object to taking the place of my brother from Chambers.

MR. PROCTOR—The Committee on Journal reports that the Journal is correct in all these matters that have been brought before the Convention.

The report of the Committee on the Journal was read, and stated that the Journal for the nineteenth day was correct.

MR. PETTUS—I move that the Convention proceed to the consideration of the report of the Committee on the Executive Department.

THE PRESIDENT—The question before the House is the report of the Committee on the Journal.

MR. GREER (Calhoun)—I move that it be adopted.

The motion was carried.

MR. PETTUS—I renew my motion.

MR. O'NEAL (Lauderdale)—I ask unanimous consent to offer—

THE PRESIDENT—The gentleman from Limestone has the floor.

MR. PETTUS—I renew my motion that we proceed with the consideration of the report of the Committee on the Executive Department.

THE PRESIDENT—The motion is not in order.

MR. PETTUS—I move to suspend the rules for that purpose.

THE PRESIDENT—The gentleman from Limestone moves that the rules be suspended and that the Convention—

MR. ROGERS (Sumter)—I ask the gentleman to withdraw his motion just a moment, for the introduction of an ordinance.

MR. PETTUS—I withdraw the motion.

MR. O'NEAL (Lauderdale)—I ask leave to offer a resolution to be referred to the proper committee.

MR. WADDELL—I call for the regular order, Mr. President.

MR. deGRAFFENREID—I move a suspension of the rules for the purpose of allowing Mr. O'Neal of Lauderdale to introduce that resolution. There have been a number of resolutions introduced by consent. He simply wants to get that before a committee. It is a matter which will come under the consideration of the House at some other time.

MR. LONG (Walker)—I ask the gentleman if he won't make it general to all of the gentlemen in order that they may introduce resolutions?

MR. deGRAFFENREID—No, sir.

THE PRESIDENT—The motion is that the rules be suspended—

MR. ROGERS (Sumter)—I believe that the gentleman from Limestone withdrew his motion temporarily in order to give me an opportunity to introduce an ordinance.

MR. JONES (Montgomery)—I have a proposition that I think will meet with universal approval, if you will allow me to state it.

THE PRESIDENT—There is a motion before the House to suspend the rules, which is not debatable.

Upon a vote being taken the Convention refused to suspend the rules.

MR. JONES (Montgomery)—I ask unanimous consent for the purpose of saving time and helping out all our brethren, if they will listen to me: I won't say a word afterwards, but just state the motion.

MR. HEFLIN (Chambers)—I object, Mr. President.

THE PRESIDENT—Objection is made. The next order of business is the call of the roll for the introduction of resolutions, ordinances, etc.

Mr. Cornwall yielded his call to Mr. Rogers of Sumter.

MR. ROGERS (Sumter)—I desire to introduce this, at the request of the Chairman of the Committee on Executive Department made day before yesterday that the delegate from Sumter should write out clearly what was ambiguous, in Section 4 of the article on Executive Department.

Ordinance 372, by Mr. Rogers of Sumter:

The returns for every election for Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney-General, Superintendent of Education and Commissioner of Agriculture and Industries, shall be sealed up and transmitted by the returning officers to the seat of government, and directed to the Speaker of the House of Representatives, who shall, during the first week of the session, to which such returns shall be made open and publish them in the presence of both houses of the General Assembly in joint convention; but the Speaker's duty and the duty of the joint convention shall be purely ministerial.

The result of the election shall be ascertained and declared by the Speaker from the face of the returns without delay.

The person having the highest number of votes for any one of said offices shall be declared duly elected, but if two or more persons shall have an equal and the highest number of votes for the same office the General Assembly, by joint vote, without delay, shall choose one of said persons for said office.

Contested elections for Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Education and Commissioner of Agriculture and Industries shall be determined by both houses of the General Assembly in such manner as may be prescribed by law.

Referred to the Committee on Executive Department.

MR. COFER—My name was called so rapidly that I did not have the opportunity to send up a resolution. I desire unanimous consent to send it up.

MR. JONES (Montgomery)—I would like to inquire of my friend if he is the gentleman that objected to leave for me.

The leave was given.

Ordinance 373, by Mr. Cofer:

An ordinance to be entitled an ordinance to define in part the duties of Lieutenant Governor of this State as provided for by this Constitution.

Be it ordained by the people of the State of Alabama in Convention assembled, that the Lieutenant Governor of this State shall perform the duties required of the Private Secretary of the Governor, and shall receive for his services such compensation as may be allowed the private Secretary of the Governor.

Referred to Committee on Executive Department.

MR. BROWNE—The roll was called so rapidly that I could not catch my name as it was called. I desire to introduce a resolution, and I will ask after the resolution has been read, to suspend the rules and put it on its passage.

Resolution No. 150, by Mr. Browne:

Resolved, That the report of the Committee on Taxation be set for the special order of this Convention, to be taken up and considered by sections, immediately after the conclusion of the existing special orders.

MR. BROWNE—I now move to suspend the rules in order to put the resolution upon its passage.

Upon a vote being taken, the convention refused to suspend the rules, and the resolution was referred to the Committee on Rules.

MR. BROWNE—I ask unanimous consent to withdraw it.

Mr. Pettus, and Mr. O'Neal (Lauderdale) objected to a withdrawal.

MR. CRAIG—I have an ordinance which was forwarded to me by a gentleman with the request that I introduce it, and I do so at his request.

Ordinance No. 374, by Mr. Craig (by request):

To amend Section 1 of Article VIII of the Constitution of Alabama.

Whereas very many of the people of Alabama have expressed themselves as unalterably opposed to the disfranchisement of any white man, except for crime, and have pledged many delegates to this Convention to observe this rule in framing a Constitution; and whereas by the express limitations contained in the IX and XXVth Amendment to the Constitution of the United States, the same rule must be applied to negro men, and if so applied in good faith, society would still be oppressed and debased by the exercise of voting by a large number of ignorant brutal men, wholly unfit to govern themselves and much less fit to govern others; and

Whereas it is expected of this Convention and is its highest duty to so frame the Constitution, as that the Government of the

people of the State of Alabama shall be placed and forever remain in the hands of those of her citizens, to whom of right it belongs, viz: those who are intelligent enough to know the right and with moral courage to do right, therefore.

Be it ordained by the people of Alabama in Convention assembled:

That every woman possessing the qualifications hereinafter specified shall be entitled to register and vote.

She must be twenty years old or upwards, and if a married woman, the wife of a citizen of the United States, and shall have resided in the election precinct in which she offers to vote for two years next preceding the election, and must be able to write legibly the required application for registration and sign her own name upon the registration list; and if her husband did not pay State and County taxes to the amount of $5 on property for the preceding year, then she must have paid taxes to that amount on wages or income to the amount of three hundred dollars during the preceding year.

If a single woman, she must, in addition to the qualifications of residence and ability to write above prescribed for married women, have been born in one of the United States, or if born in a foreign country, must have resided in one of the United States, continuously since she was ten years old, and must have paid State and County taxes to the amount of $5 on property for the preceding year or have earned wages or income during the preceding year to the amount of three hundred dollars.

And the following described women shall not be entitled to register nor vote: Women who have been divorced, except only for the adultery of the husband; women who are dependent on another in whole or part for their maintenance, Women who live in adultery or fornication.

Referred to Committee on Suffrage and Elections.

MR. BURNS—I think it should go to the Committee on Militia.

Mr. Dent yielded his call to Mr. O'Neal of Lauderdale.

Resolution 151, by Mr. O'Neal of Lauderdale:

Resolved by the people of Alabama in Convention assembled: That it is the sense of this Convention that the General Assembly of Alabama should at its first meeting after the ratification of this Constitution fix the salary of the Governor of Alabama at five thousand dollars per annum; provided the same can be done without an increase of taxation in this State.

Referred to Committee on Executive Department.

Ordinance 375, by Mr. Greer of Perry:

An ordinance to provide for the filling of vacancies in certain offices in the several Counties of the State.

Be it ordained by the people of Alabama in Convention assembled:

That the Court of County Commissioners of the several Counties in the State be empowered to fill all vacancies occurring in such counties by reason of death, resignation, removal, impeachment, failure to qualify or other disability, in the following offices to wit: Probate Judge, Sheriff, Clerk of Circuit Court, Tax Assessor, Tax Collector, Treasurer, Superintendent of Education, Coroner, Justice of the Peace, Constable, members of the Commissioners' Court and all elective offices.

Second—The appointment so made by such court of County Commissioners to extend only until the next General Election; provided, that the Probate Judge may temporarily fill such vacancies, until the next regular meeting of such Court of County Commissioners.

Ordinance 376, by Mr. Hinson:

An ordinance to establish an inferior court in cities of five thousand inhabitants or more and to abolish the office of Justices of the Peace in such cities.

Be it ordained by the people of Alabama in Convention assembled, that there shall be elected by the qualified electors of each precinct of the Counties not exceeding two Justices of the Peace and one Constable. Such Justices shall have jurisdiction in all civil cases wherein the amount in controversy does not exceed one hundred dollars, except in cases of libel, slander, assault and battery and ejectment. In all cases tried before such Justices the right of appeal without the payment of costs, shall be secured by law, provided that in cities of five thousand population or more there shall be established an Inferior Court presided over by a Judge to be elected by the General Assembly, which Inferior Court shall be in lieu of and shall exercise the same jurisdiction as Justices of the Peace.

Referred to Judiciary Committee.

Resolution by Mr. Jones of Montgomery:

Resolved that hereafter there shall be no call for introduction of resolutions and ordinances; but any member desiring to introduce a resolution or ordinance shall send it to the Clerk's desk at any time and the President at such time during the day as he may deem proper shall have such ordinance or resolution read and referred to the appropriate committee.

MR. JONES (Montgomery)—I ask a suspension of the rules that the resolution may be put upon its passage. I think all will agree that we will save a good deal of time by it.

The reading of the resolution was called for.

MR. JONES (Montgomery)—To save time I withdraw the motion to suspend the rules and will let it go to the committee.

The resolution was referred to the Committee on Rules.

THE PRESIDENT—The hour of 11 o'clock having arrived under the rules of this Convention the call of roll will be suspended.

MR. SMITH (Mobile)—I desire to ask unanimous consent for the Judiciary Committee to return Ordinance 240 and ask that it be referred to the Committee on Preamble and Declaration of Rights. The request is made at the instance of the gentleman offering the ordinance.

The reference was changed as requested.

MR. FOSTER—I ask leave to have an ordinance relating to primary elections, which was referred to my committee, referred to the Committee on Suffrage and Elections.

The reference was changed as requested.

MR. LONG (Walker)—My name is on the call, and before we adjourn, I ask to introduce a resolution.

MR. JONES (Montgomery)—I would like to ask my friend if it has anything to do with this matter—

MR. LONG (Walker)—I would like for the whole House to know what it is.

MR. JONES (Montgomery)—I object then.

MR. LONG (Walker)—I move then to suspend the rules.

By a vote of 51 ayes and 39 noes, the Convention refused to suspend the rules.

THE PRESIDENT—The regular order will be the consideration of the report of the Committee on Executive Department.

MR. BURNS—Isn't there some mistake about that vote?

THE PRESIDENT—It takes two thirds vote to suspend the rules.

The regular order will be the consideration of the report of the Committee on Executive Department. The Secretary will read the next section.

Sec. 9. The Governor may require information in writing, under oath, from the officers of the Executive Department named

in this article, or created by statute, on any subject relating to the duties of their respective offices; and he may at any time require information in writing, under oath, from all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions. Any such officer or manager who makes a wilfully false report, or fails without sufficient excuse to make such report when demanded, is guilty of an impeachable offense.

MR. JONES (Montgomery)—I will state that the only change in that article from the present article in the Constitution, is that it provides for the case of a refusal. Heretofore it provided, only in the case of a false report, but did not provide for the refusal to report at all. The present Constitution says that the officer shall be guilty of perjury and we simply make it an impeachable offense. We thought that would be better.

THE PRESIDENT—What will the Convention do with the section?

MR. WALKER—I desire to offer an amendment.

The amendment was read as follows:

Amend by striking out the words "such report when demanded," in line seven, and insert in their stead the words "the required report on demand."

MR. WALKER—It occurs to me that as presented by the committee, the words such report, in the seventh line, refer necessarily to a wilfully false report.

MR. JONES—I would like to agree to anything that my distinguished friend from Madison offers, but the Constitution is meant to be plain words for plain people to understand, and any such officer or manager who wilfully makes a false report, or without excuse fails to make such report when demanded, is guilty of an impeachable offense. There is no practical difference. Nobody on earth would think "such report" meant a false report.

I really think it is child's play to be amending the Constitution in these particulars, and everything that comes along, and when we get to that Committee on Harmonics, we will fix it all up.

MR. WALKER—The purpose of the amendment is simply to have the report say what is intended by the Committee, and I don't think it does now.

MR. HINSON—I move to lay the amendment on the table.

The motion to table was lost by a vote of 37 ayes and 43 noes; upon further vote the amendment was adopted.

MR. HEFLIN (Chambers)—I move the adoption of the Section as amended.

The Section was adopted.

THE PRESIDENT—The Secretary will read the next Section.

The Secretary read Section 10, as follows:

Sec. 10. The Governor may by proclamation on extraordinary occasions, convene the General Assembly at the seat of Government or at a different place, if since their last adjournment, that shall have become dangerous from an enemy, insurrection, or other lawless outbreak, or from any infectious or contagious diseases, he shall state specifically in such proclamation each matter concerning which the action of that body is deemed necessary.

MR. SANFORD—I move to amend Section 10, by adding at the end—

THE PRESIDENT—Will the gentleman send up his amendment.

MR. SANFORD—The words, "and the General Assembly shall at that time consider no other subjects."

THE PRESIDENT—Will the gentleman send up his amendment that it may be read at the Clerk's desk, so that all members may hear it?

MR. SANFORD—I beg pardon.

The amendment was read as follows:

Amend Section 10 by adding at the end of the fifth line the words "and the General Assembly shall consider no other subjects."

MR. HEFLIN (Chambers)—I move the adoption of the amendment.

By a vote of 34 ayes and 39 noes the amendment was lost.

MR. FITTS—I move the adoption of the Section as reported by the Committee as now amended.

MR. MAXWELL—I have an amendment.

Amend Section 10, Article V., by inserting in line four the words "and" after the word "diseases."

The amendment was adopted.

MR. FITTS—I move the adoption of the Section as now amended, and upon that I call for the previous question.

On a vote the call for the previous question was sustained.

A reading of the Section as amended was called for.

The Section was read as follows:

The Governor may by proclamation on extraordinary occasions convene the General Assembly at the seat of Government, or at a different place, if since their last adjournment, that shall have become dangerous from an enemy, insurrection, or other lawless outbreak, or from any infectious or contagious diseases, and he shall state specifically in such proclamation each matter concerning which the action of that body is deemed necessary.

Upon a vote the Section as amended was thereupon adopted.

THE PRESIDENT—The Secretary will read the next Section.

Section 11 was read as follows:

Sec. 11. The Governor shall, from time to time, give to the General Assembly information of the state of the Government, and recommend to their consideration, such measures as he may deem expedient; and at the commencement of each regular session of the General Assembly, and at the close of his term of office, give information by written message of the condition of the State; and he shall account to the General Assembly, as may be prescribed by law, for all moneys received and paid out by him, or by his order; and, at the commencement of each regular session, he shall present to the General Assembly estimates of the amount of money required to be raised by taxation for all purposes.

MR. FITTS—I move the adoption of that Section as reported by the Committee.

The Section was adopted.

THE PRESIDENT—Read the next Section.

Section 12 was read as follows:

Sec. 12. The Governor shall have power to remit fines and forfeitures, under such rules and regulations as may be prescribed by law; and, after conviction, to grant reprieves, paroles, commutations of sentence and pardons. The Attorney General, Secretary of State and State Auditor, shall constitute a Board of Pardons, who shall meet on the call of the Governor, and before whom shall be laid all recommendations or petitions, for pardon or commutations or paroles, in cases of felony; and the Board shall hear them in open session, and give their opinion in writing, to the Governor thereon, after which or on the Board's failure to advise for more than sixty days, the Governor may grant or refuse the commutation, parole or pardon, as to him seems best

for the public interest. He shall communicate to the General Assembly at each session, each case of reprieve, commutation, parole, or pardon, with his reasons therefor, and the opinion of the Board of Pardons in each case required to be referred; stating the name, crime and convict, the sentence, its date, and the date of reprieve, commutation, parole, or pardon. Pardons in cases of felony and other offenses involving the crimen falsi, shall not relieve from civil and political disabilities, unless specifically expressed in the pardon.

MR. FITTS—I move the adoption of that section as reported by the Committee.

MR. LONG (Butler)—Mr. President, I object to that. I have an amendment that I wish to offer to that.

THE PRESIDENT—Will the gentleman withdraw for the purpose of considering the amendment?

MR. FITTS—Yes, I withdraw in order to allow that amendment with the understanding that my motion may be renewed.

Amendment by Mr. Long (Butler):

Amend by striking out the words "crimen falsi" where they appear in line fourteen of section 12, and insert the words "criminal offense."

MR. LONG (Butler)—Now, Mr. President, the only reason that I have for asking for that amendment is that I want plain English language put in this Constitution, so that everybody can understand what it means. I do not think we should have any foreign language in this Constitution. I state to you here and now that a Populite in my County would go down to some of the beats there, and use the words "crimen falsi" and carry every vote in the beat, (Laughter.) and make the biggest bugaboo out of those words possible, and if the Committee does not like the words criminal offense, why they can get the definition of the words "crimen falsi" and put in what they think is proper.

MR. WALKER—Will the gentleman allow an interruption?

MR. LONG (Butler)—Yes.

MR. WALKER—Would not this answer your purpose. Strike out the words "crimen falsi" in line fourteen and insert in lieu thereof the words "moral turpitude."

MR. LONG (Butler)—I will accept it if you say "moral turpitude or criminal offense."

MR. FITTS—We have no objection.

MR. JONES (Montgomery)—We will accept that.

MR. LONG (Butler)—I will accept it with "moral turpitude."

MR. LOMAX—But the gentlemen from Butler attaches a condition to his acceptance of the substitute—

THE PRESIDENT—He withdrew his condition.

MR. WALKER—I offer that as a substitute, or amendment to the amendment.

MR. LOMAX—The substitute is entirely agreeable to the Committee.

MR. LONG (Butler)—I do not want to delay the Convention. All I want to do is to get the plain English what we want in the Constitution, and I will withdraw that "criminal offense," if they want to call it moral turpitude.

THE PRESIDENT—The gentleman from Butler accepts the suggestion of the gentleman from Madison, and the Committee accepts the amendment.

Upon a vote the amendment was adopted.

MR. MERRILL—I have an amendment.

The amendment was read as follows: Amend section 12 by inserting after the word "interest," in the ninth line, the following: in cases demanding prompt action, the Governor may grant reprieves, paroles, commutations of sentence and pardons, without delay and without consultation with the other members of the Board of Pardons.

MR. JONES (Montgomery)—I think my friend misconceives when he puts "reprieves" in there, as the article don't restrict the Governor at all about reprieves, because reprieves have to be acted on at once. It is pardons, commutations and paroles. I do not think he ought to be hampered but on the question of a reprieve, that can't hurt anything except not hanging a man for a few days.

MR. MERRILL—As I understand the section, as it now stands, the Governor has no power to act without consultation with the Board of Pardons, until after the expiration of sixty days.

MR. SAMFORD—That does not refer to reprieves.

MR. JONES (Montgomery)—If my friend will allow me, I see he wants to help us out in the article; that only applies to pardons, commutations and paroles, but it does not to reprieves at all. He don't go before the Board on reprieves at all.

MR. FITTS—Will the gentleman from Barbour withdraw it?

MR. MERRILL—I withdraw it.

MR. PETTUS—I have an amendment.

The amendment was read: Amend by striking out the words "Attorney General," in the third line of said section, and inserting in lieu thereof the word "Treasurer."

MR. O'NEAL (Lauderdale)—I move to lay the amendment on the table.

MR. PETTUS—I would like to ask the gentleman from Lauderdale to withdraw his motion, in order that I may state my reasons in one sentence.

MR. O'NEAL (Lauderdale)—I withdraw for that purpose.

MR. PETTUS — I understand that the Attorney General sometimes appears as the prosecuting officer of the State, and I do not think that the prosecuting officer ought to sit as a member of the Board of Pardons to consider applications that may be made—

MR. O'NEAL (Lauderdale)—He appears in the lower courts?

MR. PETTUS—No, not in the lower courts. For that reason I offer the amendment to substitute the Treasurer and let him sit with the Auditor on the Board of Pardons instead of the Attorney General.

MR. JONES (Montgomery)—The committee carefully considered all that. The Attorney-General, as a rule, never appears in the lower courts, but he does appear in the Supreme Court, and, therefore, he is generally conversant with the cases of moment, as they generally go to the Supreme Court, and, therefore, with the bulk of the cases that will come before the Board. He is an officer learned in the law, and one to whom Governors always resort for information. I doubt if there is a serious case in which the Governor has acted in twenty-five years in Alabama, that he has not first called on the Solicitor, and asked, what do you think? Give us the people's side. And the object of the committee in putting the Attorney-General there was not only because he was learned in the law, but that there would be somebody on that Board who would probably represent if he learned at all, the side of the State. Now, it is the hardest matter in the world when a man is to be hung, and his people come up before a Board, or a Governor, asking a pardon or a commutation of his sentence, to have anybody to come there and say hang this man, don't extend any clemency. People don't like to do that. They say let the Governor or the Board tussel it out, and our object in having the Attorney-General in there was not to make a blood-thirtsy Board, but to have some one man who, above all others, if he leaned any way, would lean towards looking after the rights of the State. I am satisfied that if my friend had been on the committee when the discussion was had, he would not insist on putting the Treasurer in their instead of the Attorney-General. Now, if it were a

solicitor who prosecuted the case in the courts below, and, therefore, no matter how conscientious he was, might probably have imbibed some personal feeling, the objection might be tenable, but it seems to the committee that the Attorney-General is a much better man than the Treasurer.

MR. PETTUS—I would like to ask the gentleman from Montgomery a question.

MR. JONES—Certainly.

MR. PETTUS—The authority of that Board is merely advisory?

MR. JONES (Montgomery)—Yes, entirely.

MR. PETTUS—It seems to me that the dignity of the State would be sustained by the Governor, who would have to pass on the recommendation of the Board, and that the Governor could sufficiently represent the interests of the State in that matter, and the reason I object to the Attorney-General being a member of the Board, is because, as the gentleman from Montgomery has stated, he would lean towards the State. I think the Board that sits upon applications for pardons should be impartial, and should not lean one way or the other, and I, therefore, move the adoption of the amendment.

MR. SAMFORD—Being somewhat familiar with the feelings of the solicitors of this State with reference to their attitude in prosecuting criminals, I feel constrained to say that as a general rule they are in a better position to pass upon the application for a pardon than any other set of men in the State, and with as much mercy, and as we are to have a Board of Pardons in this State, it occurs to me, and it occurred to the committee that was discussing this matter, that the Attorney-General, who represents the State before the Supreme Court, ought to be a member of the Board, not for the purpose of representing the State, and in prosecuting before the Board of Pardons, but for the reason that he is familiar, or would likely be familiar with the facts on both sides of the question.

The Attorney-General of this State is always a man learned in the law. In ninety-nine cases out of a hundred, he is as far removed from the circumstances surrounding the commission of the crime as any other officer within the State. He has absolutely no interest in it, and the only question that is brought before him for consideration is what does mercy require in this matter; what does the interest of the commonwealth require; what does the interest of the criminal require. Being a lawyer, being a man who is in the habit of weighing these matters, and these other members who are on the Board not necessarily being learned in the law, and not knowing how to weigh these things pro and con, it occurs

to me that the addition of the Attorney-General of the State to this Board of Pardons makes it a very much stronger Board than it would otherwise be. All of these things were weighed before the committee; this question was carefully considered, and it was not passed over hurriedly, and I trust that this amendment will not prevail, and I, therefore, move to lay the amendment on the table.

The motion was seconded, and by a vote of 84 ayes to 13 noes, the amendment was lost.

MR. JONES—I have an amendment.

Amend Section twelve, line six, by adding after the word felony the words "except in cases of impeachment."

MR. JONES (Montgomery)—The committee, in drafting this article, left out impeachment, and there is some doubt whether the Governor under the broad language of this section, might not have power to pardon in cases of impeachment, and so out of abundant caution, we ask to add that.

A vote being taken the amendment was adopted.

MR. FITTS—I move the adoption of this section as amended, and on that I call for the previous question.

MR. SMITH (Mobile)—I ask the gentleman to withdraw that a moment. I want to offer an amendment.

MR. FITTS—I will withdraw.

MR. SMITH—To amend section twelve by inserting in the ninth line, after the word "interest" the following: Provided the Governor shall have power to suspend the execution of any sentence until the Board of Pardons shall have acted."

MR. JONES—Now I call my friend's attention to the first part of the section that says that the Governor shall have power to remit fines and forfeitures, under such rules as may be prescribed by law, and after conviction to grant reprieves and so on; that would cover the case of the suspension of a sentence which the board was considering it.

MR. SMITH (Mobile)—If it clearly showed that was intended to be done without consultation with the Board of Pardons, I think it would, but reading it all together, I am in grave doubt as to whether or not he would not have to call the Board of Pardons together in order to grant reprieves, and I introduce it merely to relieve it of that ambiguity.

MR. JONES—I will state to my friend that the conclusion is absolutely cut out because there are but three things that go before the Board of Pardons; that is an absolute pardon, a commu-

tation, or a parole. That is all that the board has anything to do with. Therefore, I think that section is entirely free from the objection which might appear from a casual reading of it.

MR. BOONE (Mobile)—I move to table the amendment.

The motion to table was carried.

MR. COLEMAN (Greene)—I offer an amendment.

The amendment was read: Move to amend Section twelve by adding the words "and approved by the Board of Pardons."

MR. JONES (Montgomery)—Where is that.

MR. COLEMAN (Greene)—By adding to the section the words—

THE PRESIDENT—At the end of the section?

MR. COLEMAN (Greene)—Yes, sir. It occurred to me that perhaps the Governor alone ought not to be allowed to restore the franchise, without consultation with the board. Sometimes that has been abused, for individual purposes, and the promotion of ambition, and it would be better and more satisfactory where a party has been convicted of a felony, or any other offense which disfranchise him, to have the approval of others besides the Governor for the restoration of the franchise.

MR. LOMAX—I offer an amendment.

The amendment was read. Amend by inserting in line ten, before the word "reprieve," the words "the remission of fines and forfeitures."

On a vote of 62 ayes to 20 noes the amendment was adopted.

MR. LOMAX—The purpose of the amendment, Mr. President, is simply to require the Governor to report to the General Assembly not only reprieves and pardons, but fines and forfeitures remitted.

MR. FITTS—That is satisfactory to the committee.

THE PRESIDENT—The committee expresses it willingness to accept the amendment.

And upon a vote the amendment was adopted.

MR. FITTS—I now move the adoption of that section as amended and on that I ask for the previous question.

The call for the previous question was sustained, and upon a vote the section as amended was adopted.

THE PRESIDENT—The Secretary will read the next section.

Section 13 was read as follows:

Sec. 13. Every bill which shall have passed both Houses of the General Assembly shall be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that House in which it shall have originated, who shall enter the objections at large upon the Journal and proceed to reconsider it. If the Governor's message proposes amendments, which would remove his objections, the House to which it is sent may amend the bill, and send it with the Governor's message to the other House, which may adopt, but cannot amend said amendment, and both Houses concurring in the amendment, the bill shall again be sent to the Governor and acted on by him as on other bills. If the House to which the bill is returned, refuses to make such amendment, it shall proceed to reconsider; and if a majority of the whole number elected to that House, shall vote for the passage of the bill, it shall be sent with the objections to the other House, by which it shall likewise be reconsidered, and if approved by a majority of the whole number of that House, it shall become a law. If the House to which the bill is returned makes the amendment, and the other House declines to pass the same, the House shall proceed to reconsider, as though the bill had originated therein, and such proceedings shall be taken thereon as above provided. In every case, the vote 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 upon the Journals of each House respectively. If any bill shall not be returned by the Governor, Sunday's excepted, within six days after it shall have been presented, the same shall become a law in like manner as if he had signed it, unless the General Assembly, by their adjournment or recess, prevent its return, in which case it shall not be a law; but bills presented to the Governor within five days before the adjournment of the General Assembly may be approved by the Governor at any time within ten days after the final adjournment, if approved and deposited with the Secretary of State within that time. Every vote, order or resolution to which concurrence of both Houses may be necessary; except questions of adjournment, and the bringing on of elections by the two Houses, and amending this Constitution shall be presented to the Governor; and, before the same shall take effect, be approved by him; or, being disapproved, shall be repassed by both Houses according to the rules and limitations prescribed in the case of a bill.

MR. JONES—There is an amendment pending to Section 13.

THE PRESIDENT—Let the amendment be read from the Clerk's desk.

The amendment was read as follows: Amend Section 13 by striking out the words "or recess" and by adding after the words

"in which case it shall not be a law" the following words, "But when return is prevented by a recess, such bill must be returned to the House in which it originated within two days after it reassembles, otherwise it shall become a law."

MR. JONES (Montgomery)—I want to explain that without the amendment if the Governor was prevented by a recess from returning a bill in five days there would not be any obligation on him to return it at all, he could pocket it. The object of the Committee is that when the return is prevented by a recess in five days, the Governor must return it to the House in two days after its reassembling.

MR. HEFLIN (Chambers)—Can I ask the gentleman a question?

MR. JONES (Montgomery)—Certainly.

MR. HEFLIN (Chambers)—That amendment does not refer to that part of the Section which says "bills presented to the Governor within five days before the adjournment shall remain with him and he shall have the power to approve or veto at any time within ten days after the final adjournment?

MR. JONES (Montgomery)—No, we are speaking now of the case of a recess, not of an adjournment.

MR. HEFLIN (Chambers)—I have an amendment to that.

THE PRESIDENT—Does it relate to the amendment of the Committee?

MR. HEFLIN—No, sir.

MR. O'NEAL (Lauderdale)—May I ask the gentleman a question?

MR. JONES (Montgomery)—I will answer all your questions with great pleasure as soon as we pass on the amendment of the Committee so as we can see what we are to be hammered over.

A vote being taken the amendment offered by the Committee was adopted.

MR. HEFLIN (Chambers)—I have an amendment.

The amendment was read as follows: "Amend Section 13 by striking out the words beginning in line 21 "but bills presented to the Governor within five days before the adjournment of the General Assembly may be approved at any time within ten days after the final adjournment, if approved and deposited by the Secretary of State within that time."

MR. HEFLIN (Chambers)—I simply desire to say that this puts it in the power of the Governor to allow a bill to go over that has been placed in his office only five days before the final adjournment. If the Governor should not agree with the majority of the House and Senate, the power is placed in his hands to kill the bill, to refuse to allow it to become a law within ten days after the legislature adjourns, and the author of the bill is helpless and can have no relief in that line until another legislature is elected.

MR. JONES (Montgomery)—All that occurred to the Committee but under the present Constitution the General Assembly is helpless after the fifth day as to any bill they may send to the Governor. After the commencement of the five days every bill that goes there can be pocketed by the Governor if he wants to do it, so that in that respect we have not put the General Assembly in any more helpless condition than under the present Constitution; but it is known to my friend from Chambers and to all of us that towards the heel of the session a Governor is so crowded with bills that he cannot read them. I do not think there has been a man in office in at least twenty years who has read one-half of the bills which he has signed towards the close of the session. It is absolutely a physical impossibility. He has to rely on the Attorney General and some trusted friends and they read in a hurry to avoid 12 o'clock at night on the last night and he is acting in the dark. The object of this provision is to give the Governor in whom the people trust, an opportunity to calmly consider the mass of the bills that is always piled on his table the night the General Assembly adjourns. Members of this House will remember some very meritorious bills which were sent down to the Governor on the last night of the session, and, owing to his feeble health and not expecting any more bills, at a very late hour he left and under the common practice in this State those bills died the death because they were not signed before the adjournment of the General Assembly. Afterwards the Governor taking advice, concluded that the spirit of the Constitution, although it had never been acted on to that extent in Alabama, allowed him five days after the bill got to him to approve it, even if he approved it when the legislature was not in session, and he did approve five of those bills. On principle I think he was right, but there had been so much doubt about it that up to that time no Governor had acted on a bill after the General Assembly had adjourned. Now, we must trust the individual who is Governor. It is the easiest thing in the world if the Governor wants to, with 200 bills locked up in that little office that Governor Oates so eloquently described yesterday afternoon, to go off and come back a week afterwards and sit in there in private and if he is a bad man simply say to the Secretary, "Here, Mr. Secretary, I signed this before the General Assembly adjourned."

In a great many of the larger States it has been found absolutely necessary to give the Governor some time after the adjournment of the Legislature in which to pass on bills that have been pending before him not more than five days. That is the case in New York, only they give him thirty days. We thought there was an evil under the present practice and that it could be remedied, that it would advance wise and good legislation, prevent trickery and give people an opportunity to be heard, if need be, and relieve the Governor and enable him to discharge his duties more intelligently. For these reasons I regret that the Committee cannot agree to the amendment of the delegate from Chambers.

MR. HEFLIN—I move the adoption of my amendment.

Mr. Oates had risen to obtain recognition from the Chair.

MR. HEFLIN (Chambers)—Did the gentleman from Montgomery ask me a question?

MR. OATES—No, sir; I rose to speak for your amendment.

MR. HEFLIN—I thought you asked me a question.

MR. OATES—I cannot concur with the Committee. I am in favor of the motion made by the delegate from Chambers, and I wish to state to this Convention why I entertain that view.

It is quite true, as stated by the Chairman of the Committee, as every ex-Governor knows, that under the present Constitution he will be so crowded with bills the last night of the session that it is impossible for any man to read them, and it practically deprives the Governor of performing that function which is committed to him by the Constitution. In my own experience I had with me the attorney-General, the delegate from Tuscaloosa just on my right, and several other gentlemen in whom I could trust, to try to get through with the bulk of the bills, and did get through with all, I believe, but two on one occasion, and on another occasion I was not quite so successful. Now, it is an evil, there is no doubt about that, and it calls aloud for a remedy. The question is whether the remedy is to be as is proposed by the Committee or otherwise, to wit, by a restriction or limitation upon the General Assembly. The Legislature, under the present Constitution, is so loaded down with local measures, their time is so taken up—and it is quite natural that every member of either House shall want to dispose of and obtain the passage of measures which are of the greatest interest to his people of a local nature—that they neglect the general legislation until the last and then dump the most important bills almost altogether during the last day and night on the Governor.

Now I believe the better way to remedy this evil is to provide that no general law shall be passed—no general bill shall be

passed during the three last days of the General Assembly. Then they would pass them before that time and it would give the Governor at least that many days to consider them. No general bill should be passed unless it was on reconsideration during those days, and that would give the Governor time to read them.

MR. JONES (Montgomery)—What will the General Assembly do if you cut them off from local legislation and do not permit them to pass any general legislation in those last three days?

MR. OATES—They would find plenty to do. When they cut off the local legislation, as this Convention probably will, there will be a residuum, so that they will have under consideration at each session several local bills, and I would have it provided that they cannot pass any general law during the three last days of the session except upon reconsideration.

Now, the provision reported by the Committee, and which is now before this Convention, to allow the General Assembly when the Governor vetoes or practically objects to any features in a bill to amend that bill. I think that is wise and highly proper. The Legislature would find plenty to do during the three last days, and it is better to put the limitation there than it is to make an exception to the almost universal rule for there are very few States, and I didn't hear the Chairman mention but one, to wit, New York, which allows the Governor after the adjournment of the Legislature to approve any bill. And suppose that he sees proper to kill off any bill that comes before him and that he may not want to veto and send to the General Assembly. He will just let it lie by until after the adjournment and do nothing to it, and kill it in that way. Wherever he vetoes a bill, let it go back to the General Assembly and give them a chance to pass upon it. Now, there never has been an exception to that rule and my friend and distinguished Chairman of this Committee when in the Executive Chair of the State for four years I venture to say never undertook to approve a bill after the adjournment of the General Assembly. I had a very able argument put up before me by a delegate on this floor, a distinguished lawyer, citing authorities, to sign a bill after the Legislature adjourned but as there was no precedent on the part of the Governor of scarcely and of the States in the Union except where special provision in the Constitution allowed it, I declined to do so. This is breaking a precedent that is almost universal. It is not deemed wise that the Governor should have this power of approving bills after the Legislature has adjourned and gone away. Why, go to the Congress of the United States, and the President never attempts to approve anything after the adjournment of Congress.

MR. O'NEAL—Will the gentleman allow me to ask him a question?

MR. OATES—Certainly.

MR. O'NEAL—Would you permit the Legislature to consider local bills during the last three days?

MR. OATES—Of course if they are prohibited from passing any general bill at that time, they might occupy their time as stated awhile ago.

MR. O'NEAL—Are not local bills frequently as vicious and dangerous to the State as general bills?

MR. OATES—Yes, but every man knows that local bills are very short and easy to read, and you can read them without any trouble. The great long bills are mostly general laws and those are the ones which require the greatest consideration.

MR. WATTS—If the legislature has passed upon a bill, by both houses, what harm can there be to allow the Governor to approve it within ten days afterwards, as well as to approve it during the session of the Legislature? This don't say "disapprove," it says "approve."

MR. OATES—There is a precedent to the contrary that is unbroken except in one or two States, and I do not think this innovation is at all necessary. That is my answer to your question. I think we had better maintain the old practice of limiting and restricting the Legislature from passing general laws during the three last days. If there are local bills that are of considerable length, the Governor will manage very well to get along with them. They are not so important to the public as the general laws by any means, and with that limitation which, I am authorized to state authoritatively I think I can state confidently, the Committee on Legislative Department, when it makes its report, will report, I think the matter will be in the best possible shape.

MR. WILSON (Clarke)—I would like to ask the gentleman a question. If a bill is passed by both houses of the General Assembly and sent to the Governor less than five days before the final adjournment, if the Governor simply withholds his approval, what becomes of the bill—if he neither approves nor disapproves?

MR. JONES (Montgomery)—It is dead.

MR. OATES—Do you mean what effect it would have?

MR. WILSON—Yes, sir.

MR. OATES—It would fail; but that would be a departure from what is generally done, and it is not to be presumed that the Governor would do that.

MR. COBB—It occurs to me that this provision reported by the Committee on Executive Department is an exceedingly wise

one. The Governor of the State of Alabama, is, in a very important sense, a part of its legislative department. In the Constitution, we provide before any act in the nature of legislation shall become a law, it shall have the approval and assent of the Governor. The supposition and intention is that the acts of the General Assembly shall be carefully scrutinized by the Chief Executive in order to prevent hasty and improvident legislation. Now, any provision which increases his power in this regard and gives him a better opportunity so to scrutinize the actions of the General Assembly is a wide departure from heretofore existing precedents. But I have no respect for precedents merely as such. If we can find a better way we should pursue it, and not hamper ourselves and tie ourselves to the old way just because it is the old way. The gentleman from Montgomery, my distinguished friend, Governor Oates, has been unable, as has every other gentleman on this floor, and as they will be unable, to point out one single solitary objection to the proposition made here by the report of the committee. And this, for the reason that where bills go to him within a certain time of the adjournment, he can easily prevent these bills from becoming laws, by simply refusing his assent. The Legislature adjourns and the laws are not enacted. He may often times find himself in this situation. Here is a bill about which he has doubt. It is an important matter. He is willing to trust the Attorney-General or any other friend, but he wants to pass his own cool and deliberate judgment upon it. He has not the time to do it, and, therefore, out of abundant caution, he refuses to let it become a law at all. Give him this ten days and he will have this opportunity to deliberate, to consider, and to examine and thus avoid the difficulty of refusing to permit a good measure to become a law by reason of the lack of opportunity afforded him to examine it. What is the harm, I repeat, and as has been repeated heretofore? If he approves the bill, it is a law; if he refuses to approve it, it is not a law. What harm is it to give him a little time to say whether he will approve it. His approval of it before the adjournment of the Legislature can have no possible effect different from his approval of it ten days after the adjournment, and the argument made by my friend from Montgomery has no force when he attempts to show that it would have the effect of preventing the return of the bill to the Legislature. It can have no such effect as that. If he is staisfied, if he has examined, if he has deliberated and come to a conclusion that it is not a good bill, any conscientious Governor would return it to the Legislature and give them their Constitutional power to re-examine it. But it is because of this lack of time that good laws may fail, as they often have.

Now, there is another effect that arises under the present law. My friend from Montgomery does not seem to lay any stress upon the fact that local bills are signed by the Governor in this hurried manner when, upon deliberation, he would not sign

them. We have an instance before us here today. This very convention will be confronted with a proposition that a bill was passed by the last General Assembly of Alabama through fraud, and you will be asked to undo that fraud. And why was that possible? Because it was presented on the very last day of the session. It appeared to the Governor to be simply a local bill. He instituted no inquiry about it. He approved it. If he had held that bill for ten days, if the facts that have been presented to one of your committees had been presented to him, he never would have approved it, and this evil with which we are now a icted on account of this complaint that comes to us would have been avoided. I do hope that this convention will consider this matter carefully and will adopt the suggestion of the Committee on the Executive Department.

MR. FITTS—I move to table the amendment of the delegate from Chambers.

MR. SAMFORD—I hope you will withdraw that. I just want to say one word.

MR. FITTS—I will withdraw it if you will renew it for me when you say that word.

MR. HEFLIN (Chambers)—I wish the gentleman would withdraw it for me.

MR. HEFLIN—All right, I will pay you back.

MR. SANFORD—Ordinarily, when the legislature adjourns, all legislation for that session ceases. But if this section is adopted without amendment it will be impossible for the people of Alabama to know what the law will be at the adjourning of the legislature. Rights of property, within ten days, may be involved in it. Crimes may be involved in it. When the legislature adjourns, all the acts are known to the people but here ten days afterwards, an act today may be perfectly innocent is made a crime.

Now, as to questions of property involved in it: Men make contracts and transactions of every description that are perfectly valid but a law is approved ten days afterwards of which the parties to the transactions have no knowledge what ever and they become invalid and this will give to rise to litigation. I can see no reason for continuing legislation when the General Assembly is not in session. For ninety years we have gotten along without such a rule. When the General Assembly adjourns all legislation for that session ceases. I can see no reason why we should depart from that rule now and I hope the motion of the gentleman from Chambers, to strike out will prevail.

And now, in accordance with my promise to the delegate from Tuscaloosa, although against my judgment and wishes, I renew the motion to table the amendment.

MR. JONES (Montgomery)—The Committee will withdraw the motion to table so as to allow those other gentlemen to be heard, although they would not let me speak the other day under the same circumstances.

MR. HEFLIN (Chambers)—I do not desire to detain the Convention at this time with a speech, but I differ with my friend from Macon who says he does not see anything in the argument of the gentleman from Montgomery. We have three departments of government in this State, the Judiciary, the Executive and the Legislative. They are supposed to be independent of each other but the position the gentleman from Macon takes puts the Legislative Department absolutely in the hands of the Chief Executive after the General Assembly has adjourned and the members have gone home. This Committee, in some of the lines above this part which I desire to strike out, has provided that when a bill goes to the Governor and he finds objections thereto, he can return his objections with the bill to the House and the House can amend to suit his objections, and the Senate can do the same, returning it then to the Governor who has the power to approve. It provides further that if the House fails to agree with the Governor in his suggestions, they have a right to ignore those suggestions and, representing the sovereign people of Alabama, to override the veto of the Governor of the State. It is a right that members of the General Assembly have representing their constituents. I submit to this Convention that a bill could be submitted to the Governor within five days—

MR. SANFORD—Will the gentleman submit to a question?

MR. HEFLIN—I will.

MR. SAMFORD—Suppose a bill is passed by both Houses of the legislature in the last five days of the session and is sent to the Governor, has he not the power to keep it and not return it to the legislature and thereby make himself part of the legislative power just as much as under this clause?

MR. HEFLIN—That is true.

MR. SAMFORD—Does this change his power over the legislature? Is not the effect simply to give him more time for consideration?

MR. HEFLIN—That is true as to the five days. During those five days he can return it or can refuse to return it. But this Committee undertakes now to extend ten days more of time when the gentleman might be representing the County of Pike in this hall

and would have no right to recall his bill from that Governor who might purposely allow it to die by failing to return it to the Secretary of State with his approval.

MR. JONES (Montgomery)—This time is not extended to any bill on earth except those pending at the time the Legislature adjourns and which have been sent to him within five days before the adjournment and that for the purpose of approval.

MR. HEFLIN (Chambers)—I think I understand this question and I am objecting to giving the Governor the right to allow a bill to die without expressing his opinion.

MR. FITTS—He has that right now.

MR. HEFLIN—But the Legislature has the right to override the opinion of the Chief Executive at any time it sees fit to do so. It has done it and it does it every time the Legislature meets.

MR. FITTS—Has not the Governor exactly the same right now for this five days?

MR. HEFLIN—How about the ten days afterwards?

MR. FITTS—The Legislature would be gone then and they would have no right.

MR. HEFLIN—That is it exactly and I thank the gentleman from Tuscaloosa for making that point. I was undertaking to get to it, but he has expressed it better than I could. That is the meat that I am striking at now. It gives him a power he has not now and robs the Legislature of the right it has now and for that reason I think this part of the report ought to be stricken out and the Governor ought to be required to sign these bills before the Legislature adjourns, and he should not be given the power to sign or refuse to sign a bill when the General Assembly which created it has adjourned.

MR. WILSON (Clarke)—When I first read this Section of this Article I agreed with what has been said by the gentleman from Chambers. It struck me that it was increasing the powers of the Governor so far as his duties in connection with the law-making power is concerned. But after further consideration it is perfectly apparent to me that this particular provision does not in any way increase the powers of the Governor in this respect. Under the Constitution, as it now is and which it is not proposed to change, if a bill reaches the Governor within five days before adjournment of the Legislature, all the Governor has to do to kill it is simply to keep it. He does not have to veto it and return it to the General Assembly and thereby give the General Assembly the right, which the gentleman from Chambers insists it should have, of passing the bill over his veto. He does not have to re-

turn it to the General Assembly at all. He neither has to approve it or veto it, but if he just lays it aside, it does not become a law. So I say this provision does not in any way give the Governor any further power to kill legislation.

The gentleman from Montgomery says it is to be presumed that any conscientious Governor would not hold a bill during those five days and thereby deprive the General Assembly from passing it over his veto. I concur that he would not and I also believe any conscientious Governor would not abuse the ten days' privilege which is given him to investigate and find out about the merits of the bill and approve it after the General Assembly has adjourned if he sees fit. Not to veto it, he has that power already, not by an express vote, but just to do nothing. I agree that a conscientious Governor would not intentionally stick a bill in a pigeon hole or pocket it and keep it for the five days and not return it; but it might be that he would not have an opportunity to inform himself so as to form a judgment or he might not have sufficient opportunity to inform himself, as pointed out by the delegate from Macon, to justify his veto or approval of the bill and this ten days additional time may be of great benefit to the Governor in ascertaining what is meritorious legislation and so far from hindering proper legislation it seems to me that it is in the interest of meritorious legislation. There may be questions of facts in relation to a bill about which the Governor desires to get further information and about which he is unwilling to trust others and this ten days will give him the opportunity of finding out those things which might lead to his approval of a good bill, whereas but for this he might neither approve or disapprove, and thereby a good provision might become a law where otherwise it would not.

MR. FITTS—I renew my motion to table the amendment of the delegate from Chambers.

A vote being taken the motion to table was carried.

MR. FITTS—I now move the adoption of the Section as amended and upon that I call the previous question.

MR. LONG (Walker)—I rise to a point of order. The gentleman from Tuscaloosa being out of his seat cannot be recognized by the Chair.

THE PRESIDENT—The point of order is well taken.

MR. JONES (Montgomery)—I would call the attention of the Chair to the fact that permission was given to the members of the committee to sit together during the debate on their report.

THE PRESIDENT—The Chair does no remember any such resolution.

MR. deGRAFFENREID—I have an amendment to that section.

The amendment was read as follows:

Amend Section 13 by adding after the words "to reconsider it" in the fourth line the following: "If the Governor's message proposes no amendment which would remove his objection to the bill, the House in which the bill originated may proceed to reconsider and if the majority of the whole number elected to that House vote for the passage of the bill, the bill shall be sent to the other House, which shall in like manner consider it and if a majority of the whole number elected to that House vote for the passage of the bill the same shall be a law, notwithstanding the Governor's veto."

MR. deGRAFFENREID—My attention is called to the fact by the gentleman who sits with me (Mr. O'Neal) that this section makes no provision for a bill becoming a law when it is vetoed by the Governor and the Governor fails to recommend any amendment to the bill. As I read Section 13 it provides that in the event the Governor vetoes a bill, it shall be returned to the General Assembly, and it further provides that if the Governor proposes amendments to the bill the House in which the bill originated may reconsider the bill and the amendments, and the bill as amended may be sent to the other House and there reconsidered, but I can find nowhere in the article any provision for passing a bill without amendment over the Governor's veto. If under a proper construction of Section 13 that be true, it is because the gentlemen have casually omitted it and my amendment is to cure what I think is a defect in that particular.

MR. LOWE (Jefferson)—Speaking in connection and along the line of the amendment the gentleman has offered, it seems to me that the proposition embraced in the report of the committee is the most radical and the most far-reaching that has yet come before this Convention. The proposition embraces the idea and carries with it the theory that the Governor may move amendments to bills pending before the General Assembly. It strikes down the line of demarkation which has existed from the beginning between the different and co-ordinate departments of government. For that reason, Mr. President, I shall oppose the provision in the report of the committee.

Why should he at this late day, at this period in the history of our State and of our country, suggest for the first time that the Executive Officer should, for the purpose of amending bills, become a member of the General Assembly. Why sir, the executive functions and those of the law-making body are entirely distinct, they are co-ordinate but inconsistent. The Governor if he fails to approve the action of the General Assembly can put upon it the

stamp of his disapproval, and then the law-making power, the ordinary and direct representatives of the people have the right to say whether the veto of the Governor shall stand. But now this insidious innovation proposes that the Governor to all intents and purposes may not only exercise the executive function, but that he may go upon the floor of the House of the Representatives of the people and insist upon amendments to their bill. Now sir, it is possible that we shall never have an ambitious and intriguing Governor, but suppose we do, and suppose he wants not merely to pass upon the laws the people's representatives have enacted, but wishes to shape, suggest and frame those laws, he could easily make his terms and conditions and say you must accept this amendment or your bill will fail. I oppose it because the proposition seeks to remove the ancient landmarks, because it seeks to break down the wall that stands between the legislative and the executive.

We know the tendency of each department to encroach upon the other. All history has taught us that. We know that from the time that civil liberty began upon earth there has been a constant conflict between the Executive and the law-making power. And now for the first time, so far as I know, in American Constitutions, the proposition is made that the Executive should become not an ordinary member of the law-making power but that he should have the power to alter and amend it, and to say "accept that or your bill fails." He does not say "accept my amendment or your bill fails." It is not said that the General Assembly should have the right to offer amendments to the bill after its return, but the proposition is that after the bill comes from the Executive the General Assembly has merely the right and power to accept the amendment of the Executive? It takes away from the General Assembly the power to amend and the General Assembly is left without that power to originate amendments to the bill but their power is confined strictly to accepting the amendment of the Executive.

Gentlemen, I know of but one rule by which legislators should be guided and that is the settled rule of their own convictions, their ideas upon fundamental questions. If the fathers were wise, if they builded wisely when they constructed the three departments and placed the walls high between them, it would be unwise in us to seek to tear down or lower those walls today. This is a strange innovation, totally foreign to anything we have known before and the wisdom and the necessity and the justice of it should be clearly established to the mind of each member of this Convention before he should be willing to record his vote in favor of it.

MR. COBB—Is it not true that the Governor now has the power to call into his office the proposer of a bill and tell him in

plain words unless he amends the bill in such a way the bill will not be approved, and is not that done and does not this simply allow him to do openly what has occurred in his office many a time.

MR. LOWE (Jefferson)—I am willing to admit to the distinguished gentleman from Macon that it has been done in the past and if, as he says, the Governor has that power now, why give him the additional power to sit upon your floor as a legislator? If he has the right now to advise, and certainly he has with the individual members, why increase that power. It has become already more powerful than it should have become in the past, this influence of the Executive over the Law-making Department. That power has been exercised not only in the State but in the Nation until at times it has become almost a scandal. By the very language of this proposition you make your Executive Officer a member of the General Assembly, for it says "if the Governor's message proposes amendments which would remove his objections, the House to which it is sent may so amend the bill." Then he can propose any amendment to your Legislature. He can say "I, the Executive of the State, say to you, the Representatives of the people, you must embody this provision in your law."

All of us know the insidious power of the Executive. Why increase that power? Why go farther and give the Governor more than the power to which the gentleman from Macon refers as now existing in the Governor and so exercised to influence legislation? Why can't we stand by the provisions of the old Constitution, unless this means to give the Executive additional power and influence in framing the legislation of the State.

Mr. President, I have said now more than I contemplated. I have discharged what I conceived to be a plain duty in assailing what seems to me to be the most radical proposition which has yet come before the Convention, and I hope the most extreme that will at any time be submitted to it, and now, as the hour of adjournment draws near, I believe it would be unsafe for any member on this floor to attempt in the little while left to us to write an amendment which would reach the objections I have, I move the recommitment of Section 13 to the Committee with directions to the committee to eliminate from the Section the additional power sought to be bestowed on the Governor.

THE PRESIDENT—The question is on the motion of the delegate from Jefferson to recommit this section to the committee with jurisdictions.

MR. JONES (Montgomery)—No man yields more readily than I do, when acting in an official capacity, to the orders of his superiors, but here is a matter which this House has not heard discussed. So far, not a member of the committee has discussed

the outline and plan of this section as a whole. The committee is prepared to defend every line of it as written. They think they can give good reasons, abundant ones, which will convince the members and perhaps convince my friend from Jefferson when he hears them. How would this committee be put in possession of the views of the House? Some gentleman says "this thing cannot be understood right now and you go back and try again." If the Convention advises and orders what to do the committee will do it, but it is sent back with these vague instructions, how can we do anything.

MR. LOWE—The reason I made the motion to recommit is that it is the only possible way that we can reach the proposition. I think the committee can better do it and my motion to recommit carried with it instructions to eliminate that feature of the report.

MR. JONES—After all, that is simply moving to strike out that part of the report. Let us have the fight on that and of the Convention strikes it out and that leaves the section mutilated then we can determine what to do with the remains but don't let us have a funeral before the man is dead.

Now, it is getting late. This is a very important section and although I dislike very much to take up time I feel it my duty, if the debate is continued, to speak on it much longer than the hour of adjournment. We have a thin house, a great many of the members are away, and, therefore, I move that the House adjourn.

MR. LOWE (Jefferson)—Mr. President, my motion is before the House.

THE PRESIDENT—The motion to adjourn has precedence.

A vote being taken on the motion, it was carried, and the Convention adjourned until 12 o'clock Monday.

CORRECTIONS

In roll call No. 2 on twentieth day on adoption of minority report in lieu of report of Committee on Executive Department fixing Governor's salary at $5,000, Heflin (Chambers) voted to adopt the minority report, and Heflin (Randolph) voted against the minority report.

TWENTY-SECOND DAY

MONTGOMERY, ALA.

Monday, June 17, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Murphy, as follows:

Most gracious and Almighty Father, we humbly beseech Thee as for the people of this State in general, so especially for their representatives in Convention assembled that Thou wouldst be pleased to prosper all their consultations to the advancement of Thy glory, the good of our land, the safety, honor and welfare of this people, that all things be so ordered and settled by their endeavors upon the best and surest foundations that peace and happiness, truth and justice, religion and piety may be established among us for all generations. Bless especially, we beseech Thee, the labors of this day, that the membership of this Convention may become in Thy hands an instrument of order and of equity. Allay in this hour the distempers of faction and the bitterness of discord; confirm in our hearts, O Father, the wisdom of the unselfish; and renew in simplicity and in truth the spirit of the patriot, that the weakest and the lowliest of our whole people may not be found in harder case than the shorn lambs of the fold to whom Thou wouldst temper the winds of Heaven that the lovers and makers of iniquity may be disposed of power and the that righteous only may be promoted to honor. Be among us, O Lord, our God, evil sustaining and prospering the good, that Thy will may be done here upon the earth, and that those who do it may find a blessing at Thy hands. If any man among us be found in sickness or in trouble, vouchsafe the healing and the comfort of Thy spirit. Within the homes of all who serve Thee in this House, whether they be near or far, bring the assurance of Thy love and the knowledge of Thy care. These and all other necessaries for them, for us, and for Thy whole people we humbly ask in the name of Jesus Christ, our Lord. Amen.

The roll was called and showed the presence of 114 members.

LEAVES OF ABSENCE.

For to-day—Messrs. Hood, Moody, Cardin, Davis (Etowah). Searcy, Morgan M. Smith, Hodges, Boone, Whiteside, Greer (Calhoun), Henderson, Greer (Perry), White, Waddell.

To-day, Tuesday and Wednesday—Mr. Pitts, Mr. Eyster.

Saturday and to-day—Mr. Coleman (Walker.)

To-day and to-morrow—The Secretary, Mr. Julian, Mr. Sollie (Dale), Mr. Jackson.

MR. BEDDOW—I ask unanimous consent for the introduction of a short but important resolution.

The consent was given, and Resolution No. 153 was read:

Relating to the per diem of members.

Whereas, This Convention has now been in session twenty-one working days, and,

Whereas, Not a single article of the proposed new Constitution has yet been adopted; and,

Whereas, At the present rate of progress it will take some months to revise the Constitution, and

Whereas, This body will thereby subject itself to the unjust criticism that members are causing delay at the expense of the taxpayers of this State. Therefore be it

Resolved, That it is the sense of this Convention that notwithstanding the length of time consumed by this Convention in so revising the said Constitution, no per diem be allowed any member in excess of fifty days.

MR. BEDDOW—I move suspension of the rules and that we pass this resolution.

A vote being taken the Convention refused to suspend the rules. The resolution was then referred to the Committee on Rules.

MR. O'NEAL (Lauderdale)—I ask leave to introduce an ordinance.

There being no objection, the ordinance was read as follows:

Ordinance No. 377, by Mr. O'Neal (Lauderdale):

To amend Section 21, Article IV. of the Constitution of Alabama.

Be it ordained by the people of Alabama in Convention assembled, That Section 21 of Article IV. of the Constitution of Alabama be amended so as to read as follows:

Article IV.

Sec. 21. Every bill shall be read on three different days in each House; and no bill shall become a law unless, on its final passage, it be read at length, and the vote be taken by yeas and nays, the names of the members voting for and against the same entered on the journals. No bill shall be passed unless by the

consent of a majority of all the members elected to such House and the question upon the final passage shall be taken immediately upon the last reading.

Referred to Committee on Legislative Department.

MR. LONG (Walker)—The Advertiser of yesterday has a head-line which reads as follows: "Long Shoots at The Advertiser; the Walker Delegate Opposed to Free Speech." Now as a question of personal privilege, Mr. President, that is caused by the resolution introduced by myself on Saturday condemning The Advertiser for an editorial in that paper on the 15th headed "A Discouraging Vote," and which I considered then and which I still consider was an insult to a two-thirds majority of this Convention. I want to state I am not, and never have been opposed to free speech, but I am opposed to free slander, let it come from the press, or wherever it comes from, and from that comes this attack upon myself, which I think is unjust and unwarranted by the facts.

THE PRESIDENT—The regular order will be the consideration of the report of the Committee on the Journal.

The report was read, stating that the Journal for the twenty-first day was correct, and upon motion the report was adopted.

MR. OATES—As there will be no call for the introduction of ordinances, I ask unanimous consent to introduce one.

MR. LONG (Walker)—Mr. President I would like to introduce a resolution.

THE PRESIDENT—The Chair will recognize the gentleman just so soon as the ordinance by the gentleman from Montgomery is read.

The ordinance was read as follows:

Ordinance 378, by Mr. Oates:

Prescribing the number of Grand Jurors and for the supression of crime.

Whereas, in many of the counties of the State, the practice of bribing or unduly influencing Grand Juries to prevent them from finding bills of indictment in particular cases is no longer unknown, and

Whereas, such things have been done and tend to prostitute that body to the shielding of murderers and criminals instead of bringing them to justice, and whereas, the best interests of the State require the suppression of such conduct and the preservation of the Grand Jury as a pure fountain of justice, whose action should ever be in the direction of suppressing crime, preserving life

and property against the lawless, and protecting the innocent and helpless, by bringing the guilty to coding punishment thus commending to all law-abiding and just people the judicial system of the State.

Therefore be it ordained by the people of Alabama in Convention assembled.

Section 1—That after the ratification of this Constitution, a Grand Jury authorized by law in any of the courts of the State, shall consist of not less than eighteen qualified persons, ten of whom shall be required to concur in order to find a bill of indictment.

Sec. 2—That whenever a felony has been committed within the jurisdiction of any Grand Jury thereafter legally organized, and the same shall fail to find and return into court a bill of indictment against the perpetrators of such felony at the first term of the court thereafter, the presiding Judge shall have the power and authority to enter upon the docket an order directing the solicitor of such court to proceed by information against any person or persons who are reasonably suspected of having committed such felony.

Referred to the Committee on Judiciary.

MR. LONG (Walker)—I ask permission to introduce a resolution.

The leave was granted, and the resolution read as follows:

Resolution 154, by Mr. Long of Walker.

Whereas, there appears in The Montgomery Advertiser of the 15th inst. an "editorial" under the caption of "A Discouraging Vote," reflecting seriously upon the honesty of a two-thirds majority of this convention.

Therefore be it resolved that the said editorial is hereby condemned as unwise and unwarranted.

MR. LONG (Walker)—I move a suspension of the rules and that that resolution be put upon its passage.

Upon a vote the Convention refused to suspend the rules, and the resolution was referred to the Committee on Rules.

MR. deGRAFFENREID—I ask unanimous consent to be allowed to introduce an ordinance.

Ordinance 379, by Mr. deGraffenreid:

An ordinance to be entitled an ordinance to amend Section 7 of Article 1 of the Constitution of the State of Alabama.

Be it ordained by the people of Alabama in Convention assembled, that Section Seven of Article One of the Constitution of the State of Alabama be amended so as to read as follows:

That in all criminal prosecutions the accused has a right to be heard by himself and counsel or either; to amend the nature and cause of the accusation; to have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to testify, in all cases, in his own behalf, if he elects to do so, and in all prosecutions by indictment a speedy public trial by an impartial jury of the county or district in which the offense was committed; that he shall not be compelled to give evidence against himself, nor be deprived of life, liberty or property but by due process of law; and in all prosecutions by indictment the place in the county or district in which the crime was committed shall be stated with such particularity as to enable the defendant to know specifically the particular criminal act in which he is charged.

Referred to Committee on Preamble and Declaration of Rights.

MR. MORRISETTE—I move that the privileges of the floor be extended to the ministers of the gospel who open the Convention with prayer.

MR. PETTUS—I should like to amend that by adding the name of a distinguished ex-member of the Legislature, who is present in the city, Judge J. J. Arnold of Calhoun.

THE PRESIDENT—The question is first on the motion to suspend.

A vote being taken, the rules were suspended.

THE PRESIDENT—The question is on the motion of the gentleman from Monroe, that the ministers of the gospel, who have generously served the Convention in opening the proceedings with prayer, be accorded the privileges of the floor, and the gentleman from Limestone moves to amend by adding thereto the name of Judge J. J. Arnold.

Upon a vote, the amendment was adopted, and upon a further vote the resolution, as amended, prevailed.

MR. KYLE—I ask unanimous consent to introduce an ordinance.

Ordinance No. 380, by Mr. Kyle:

Be it ordained by the people of Alabama, in convention assembled, That Article XIV, on banks and banking, be so amended as to require the General Assembly, at its first session after the adoption of the amended Constitution, to enact such laws as

will require all State or private banks doing business in this State or that may be hereafter organized under the Constitution and laws of the State, and engage in the business of banking, and the first of October each year thereafter, a report of their standing, showing:

Amount of capital stock actually paid in.

Amount of deposits held by the bank.

Amount of loans and discounts, as well as amounts of all liabilities and assets at the dates of such reports.

And to require that such reports be published for thirty days after the first of April and the first of October of each year in a newspaper published in the county in which the bank is located. Such reports to be certified to by the President or Cashier of the bank making the report, before a notary or any other officer authorized to administer an oath.

And to further provide that any President or Cashier of any private or State bank who makes a fraudulent report of the standing of any bank, or who converts to his own use any of the assets of any State or private bank in this State, without authority of law, shall be guilty of a felony, and on conviction, shall be imprisoned in the penitentiary not less than three nor more then ten years, at the discretion of the court trying the case.

Referred to Committee on Banks and Banking.

MR. BLACKWELL—I desire to introduce a petition.

The petition was read as follows:

State of Alabama, Morgan County.—Court of County Commissioners.

Decatur, Ala., June 15, 1901.

To the Honorable Constitutional Convention, Montgomery, Ala.:

The undersigned, Commissioners' Court of Morgan County, Alabama, respectfully ask and request your honorable body not to reduce the present rate of one-half of one per cent. allowed for special taxes, and we respectfully ask that the Commissioners' Courts be allowed this special tax for the building and repairing the court houses, jails and public bridges and public roads of the several counties in this State.

The people of our county are not asking any reduction in this special rate of taxation, but, on the contrary are clamoring for the privilege of paying a special tax for the improvement of our public roads.

Our county is traversed by many streams which require bridges to accommodate the traveling public. One-fourth of one per cent will now permit us to keep these bridges and our court house and jail in proper repair.

We, therefore, ask and urge that you allow the present rate of one-half of one per cent of taxation for these special purposes to remain as it is, with the words "public roads" added thereto.

Very respectfully,

Wm. E. Skeggs,
A. F. Murray,
S. P. Lovelady,
M. W. Ratliff,
S. R. Garrison.

Referred to Committee on Taxation.

MR. SMITH (Mobile)—On behalf of the Rules Committee, I desire to report favorably resolution No. 150, and move its adoption.

Resolution 150 was read as follows:

Resolved that the report of the Committee on Taxation be set for a continuing special order of the Convention to be taken up and considered by sections immediately after the conclusion of the existing special order.

On motion the resolution was adopted.

MR. SMITH (Mobile)—On behalf of the Rules Committee I desire to offer a resolution amending Rule Eleven so as to enable members of committees, while their reports are under discussion, to sit together.

The resolution was read as follows: No. 155, with favorable report from the Rules Committee: Resolved that Rule Eleven be amended so as to read as follows:

Rule 11—When any delegate is about to speak or deliver any matter to the Convention he shall rise from his seat and respectfully address himself to the President; provided that while the report of any committee is under consideration the members of the committee may exchange seats with other members of the Convention.

MR. SMITH (Mobile)—I move the adoption of the resoluiton.

The resolution was upon a vote of the Convention adopted.

MR. SMITH (Mobile)—On behalf of the Rules Committee I desire to report a substitute for resolution No. 146, and move its adoption, and in this connection I desire to say that the condition of the several committees is such as to make it almost absolutely necessary.

THE PRESIDENT — Will the gentleman wait until the resolution is read and the Convention will be better able to understand the explanation.

Resolution 146, with substitute: Resolved that after next Monday this convention shall meet regularly at 10 o'clock in the morning and shall remain in session from that time until 1 o'clock p. m. when a recess shall be taken at 3 p. m. and the Convention shall remain in session until 5 p. m. when the Convention shall stand adjourned until 10 a. m. of the succeeding day.

Substitute for the resolution, reported by the Committee on Rules:

Resolved that after the passage of this resolution this Convention shall meet regularly each day at 10 o'clock in the morning and shall remain in session from that time until 1 o'clock p. m. when a recess shall be taken until 3 p. m. and the Convention shall remain in session until 5 p. m. when the Convention shall stand adjourned until 10 a. m. of the succeeding day.

MR. SMITH (Mobile)—I move that the resolution be laid on the table until Thursday next, and from day to day thereafter, until taken up for consideration by the Convention, and the reason for that is the fact that the Suffrage Committee, and several of the other committees are very much engaged in their work, and it would render it almost impossible for them to make their reports in any reasonable time, if the sessions are prolonged immediately. It is hoped by Thursday they may be in a position to consent to lengthening the session, but if not, the resolution may be further deferred.

The motion to lay the resolution on the table until Thursday and from day to day thereafter until taken up by the Convention was carried.

MR. DENT—In order to test the sentiment of the Convention as to evening sessions, I send up a resolution.

THE PRESIDENT — The gentleman from Barbour asks unanimous consent to introduce a resolution. The Chair hears no objection and the Clerk will read the resolution.

No. 156, by Mr. Dent: Resolved that when this Convention adjourn, it adjourn to meet again at 3 o'clock p. m. today.

THE PRESIDENT—Without a suspension of the rules the resolution would be referred to the Committee on Rules. The Chair understands that the gentleman desires to take the sense of the Convention?

MR. DENT—Yes.

THE PRESIDENT — It would be necessary to move a suspension of the rules.

MR. DENT—I move a suspension of the rules and that the resolution be placed upon its passage.

Upon a vote being taken the Convention refused to suspend the rules, and the resolution was referred to the Committee on Rules.

MR. O'NEAL (Lauderdale) — I ask unanimous consent to offer a resolution and for its reference to a committee.

The consent was given and the resolution read as follows:

Resolved that on account of the limited capacity of the Convention Hall, hereafter the privileges of the floor shall not be extended to any person, except by the unanimous vote of the Convention.

MR. SAMFORD—I move a suspension of the rules, for the purpose of putting that resolution on its immediate passage.

MR. deGRAFFENREID—I second the motion.

By a vote of sixty-four ayes to twenty-nine noes, the rules were suspended.

MR. BURNS—I rise to a point of information.

THE PRESIDENT—The gentleman will state the point of inquiry.

MR. BURNS—Do we understand that if some distinguished gentleman were to pass before the door, that one hundred and fifty-four members could not invite him to the courtesies of this floor?

THE PRESIDENT—In the opinion of the Chair that is the meaning of the resolution.

A division was called for and by a vote of seventy ayes to nineteen noes the resolution was adopted.

MR. GRAHAM (Talladega)—I ask unanimous consent to introduce a resolution.

MR. LOWE (Jefferson)—I wish to state hereafter I shall object but not now.

Resolution No. 158, by Mr. Graham (Talladega):

Resolved, That the thanks of this Convention are hereby tendered to the Western Railway of Alabama for courtesies recently extended on the occasion of the funeral of Gov. W. J. Samford to members of this Convention through Gen. Geo. P. Harrison; also, to Superintendent J. C. Clarke of the Mobile and Ohio Railroad for courtesies recently extended to a special Committee of this Convention.

Rules suspended and resolution adopted.

MR. GRAHAM (Talladega) — I move a suspension of the rules to put that resolution upon its passage.

Upon a vote the Convention suspended the rules and the resolution was adopted.

MR. WILLETT—I move that we adjourn.

MR. JONES (Montgomery)—I rise to a question of personal privilege.

MR. WILLETT—I withdraw the motion for that purpose.

MR. JONES (Montgomery) — It will be remembered, Mr. President, the other day there was a newspaper article which caused some heat. When my friend from Walker moved to suspend the rules, I objected, and stated that it was only a newspaper article he wished to bring before this body. I have been informed that some of the members of the Convention have been told that my reasons for thus objecting were that I was either the author or inspirer of this article. Now I differ with a great many members as to the effect or propriety of that editorial; but that is not germain to the point I wish to make. That article it happened was somewhat complimentary to some remarks made by myself on that occasion. I think I can say, what every man who has taken enough interest in me to look after my customs and habits knows full well, that never in my life have I written anything which reflected on anybody unless I signed my name to it. That has been my habit all my life. (Applause). I had never seen or heard of the editorial until it was laid upon my desk. I had no conference, or talk with any human being about it, and did not know it would be written. My reason for objecting was that I think the press, if they choose, have the right to say that we are a set of noodles or bumpkins, or anything else; and if they state it truly, our remonstrance will do no good. On the other hand, if their criticisms are not well founded, the people will take care of them. Resolutions of censure are worthless, and not becoming a great assembly like this. These were my reasons for objecting to the resolution.

THE PRESIDENT—The regular order will be the consideration of the report of the Committee on Executive Department.

MR. WILLETT—I renew my motion to adjourn.

Upon a vote the motion was lost.

THE PRESIDENT—The regular order is the consideration of the report of the Committee on Executive Department.

The question is upon the motion made by the gentleman from Jefferson to refer Section 13 back to the Committee on Executive Department, with instructions to eliminate the feature discussed by him in his arguments on Saturday, which is that provision which confers upon the Governor the right to suggest amendments.

MR. deGRAFFENREID—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. deGRAFFENREID—The gentleman's motion was out of order. The House had before it for consideration the question as to whether or not it would adopt an amendment which was offered by me to Section 13, and while that matter was pending before the House, the gentleman from Jefferson made a motion to recommit, which puts two motions before this body for consideration. For that reason I thought that the gentleman was out of order but I did not raise the point of order because the gentleman discussed a question with which I was somewhat in sympathy, and I thought the House would like to hear him on the subject, but we have heard him and now I think he is out of order, and that the question now before the House is whether or not the amendment offered by me shall or shall not be adopted.

THE PRESIDENT—In the opinion of the Chair—

MR. LOWE (Jefferson) — Before the Chair announces the opinion, my motion was—

THE PRESIDENT—The Chair is going to rule in favor of the gentleman.

MR. LOWE—Very well, but for information I desire to say that my motion was to recommit the Section and the pending amendments.

THE PRESIDENT—That was the motion, and it appears in the report.

MR. deGRAFFENREID—Then I ask the gentleman, as the Chair is going to rule in his favor, to allow me to offer an amend-

ment so that it can be referred together with the Section and the amendments already pending.

MR. LOWE—I am perfectly willing for that.

THE PRESIDENT—Does the gentleman withdraw temporarily?

MR. LOWE—No, sir. I do not care to withdraw my motion, but I am willing, by unanimous consent, for the amendment to be offered and read so as to go to the Committee.

THE PRESIDENT — The delegate from Hale desires, by unanimous consent, to offer an amendment. Is there any objection?

There was none and the amendment was read as follows:

Amend Section 13 by striking from the Section all after "if any bill" in the eighteenth line thereof, and insert in lieu thereof the following: 'Every bill which shall have passed both Houses of the General Assembly shall be presented to the Governor. If he approves he shall sign it, but if not, he shall return it to that House in which it shall have originated which shall enter the objections at large upon the journal and the House to which the bill shall be returned shall proceed to reconsider it. If, after such reconsideration, a majority of the whole number elected to that House shall vote for the passage of such bill, it shall be sent with objections to the other House, by which it shall likewise be reconsidered, and if approved by a majority of the whole number 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 upon the journals of each House respectively."

MR. deGRAFFENREID—I desire to state that the effect of that amendment is simply to strike from Section 13 the power of the Governor to propose any amendment to any bill which comes to him for signature. In other words, it leaves the law just as it now exists, with one exception, and that is, that the Governor shall have the power, within ten days after the adjournment of the Legislature, to approve a bill if it comes into his hands within five days before the adjournment.

MR. JONES (Montgomery)—I regret, Mr. President, that it falls to my lot, as chairman of the committee, to appear so often upon the floor of the House, but it is a matter of duty and I shall proceed to discuss, briefly, the motion to recommit.

This House has not voted upon a single one of the amendments, and, if the section were recommitted, the committee would be without the aid or advice of the House on any of the matters

covered by the amendments. Therefore, it seems to me, a recommittal at this stage would not aid in a solution of this question. Besides, if I recollect the amendments aright, if the portions of the ordinance to which these amendments relate were stricken out, the ordinance would still be perfect, and there would be no need to recommit.

As I stated on Saturday, the committee is the servant of this House, and is perfectly willing to have the House send its work back; but it is due to the House and to the committee, if the House sends the work back that it send it with directions what to do, to strike out this or that, or amend this or that, and not send it back to us without advice or directions of any sort.

MR. LOWE—Will the gentleman pardon me for a moment?

MR. JONES (Montgomery)—Certainly.

MR. LOWE—Does not the gentleman understand that my motion carries with it instructions to strike from Section 13 the obnoxious clause to which I addressed myself?

MR. JONES (Montgomery)—Then I would suggest to my friend from Jefferson if he would be kind enough to change his motion to recommit to a motion to strike out that part of this section, the result would be attained.

MR. LOWE—The reason I do not care to do that is because this is a section which requires to be very carefully written, and I do not believe it is safe in making a Constitution, working as we are, with the ends for which we are working, to amend by piecemeal upon the floor. It seems to me the best procedure would be to recommit, and, therefore, my motion did carry with it instructions to the committee to eliminate one objectionable feature from Section 13, simply that the committee might carefully re-write that section.

MR. JONES (Montgomery) — I quite understand the purpose of my friend from Jefferson, and I quite agree with him that we should not be hasty in passing upon important sections; but I think he loses sight of the fact that if that part of the section to which his amendment is directed were stricken out, the ordinance would still be complete in itself and, as we are going to pass upon this ordinance, as it is finally amended, and as it is going before the Committee on Harmony, I do not think we take any risk by having a vote on these questions now; and then, if the ordinance is left in an incomplete or an improper shape, to recommit to the committee.

MR. LOWE—If the gentleman will pardon me—

MR. JONES (Montgomery)—Certainly.

MR. LOWE—I am frank to say I would be utterly unable to draft an amendment to strike out the part I want stricken out that would leave the Section harmonious, it might or it might not. It seems to me, it would take time to eliminate the various phrases running all through the ordinance.

MR. JONES (Montgomery)—Will my friend permit me one suggestion: Let us not cross the bridge before getting to it. Suppose the House does not strike out the things which are objectionable to you?

MR. LOWE—Then my motion is lost. It is in the body of my motion that the committee be instructed to eliminate.

MR. JONES (Montgomery)—That is the reason I suggest that a direct vote on that proposition would be better.

Mr. President, I see it lacks only four minutes of adjourning time, and I cannot accomplish anything by occupying the floor four minutes, and I move that the Convention adjourn.

MR. PILLANS—Is it in order to name the hour to which we shall adjourn?

THE PRESIDENT—Under the rules, when we adjourn we will adjourn until tomorrow morning at 10.

MR. PILLANS—I think we should work twice a day.

THE PRESIDENT — The chair would suggest that that question was submitted to the Committee on Rules and they have reported on the matter. If the gentleman desires, he can move to suspend the rules.

MR. PILLANS—Then I move to suspend the rules in order that I may amend the motion of the delegate from Montgomery, that we adjourn until 3 o'clock.

THE PRESIDENT—Does the gentleman move to suspend the rules?

MR. PILLANS—Yes, sir.

MR. OATES—I hope the delegate from Mobile will not insist on that motion, because there are committees engaged on reports that it is absolutely necessary to get in as soon as possible, and one or two more afternoons will permit us to finish.

THE PRESIDENT—Does the gentleman from Mobile insist on his motion?

MR. PILLANS—I will not after that statement of the gentleman from Montgomery.

MR. HEFLIN (Chambers)—I move that the rules be suspended and that the House remain in session until 2 o'clock.

A vote being taken, the House refused to suspend the rules, and, after the announcement of various committee meetings, the Convention adjourned.

TWENTY-THIRD DAY

MONTGOMERY, ALA.,

Tuesday, June 18, 1901.

The Convention met persuant to adjournment, was called to order by the President and the proceedings were opened with prayer by the Rev. Mr. Murphy as follows:

O God, King Eternal, Immortal, Invisible, God of our Fathers' fathers and of our children's children, guard we pray Thee, at our hands, the welfare of this State and people. Keep the land, which Thou hast given us by the blood of heroes from the past, and which, through our hearts and deeds, Thou hast given unto the days hereafter. Help us to be pure in purpose, wise in counsel, diligent in service. Keep Thou the way of our hearts, guard Thou the door of our lips. Drive far from us all hatred, pride, and prejudice, and whatsoever else may hinder us from godly union and concord, that the peace of brethren may temper the counsels of truth, and that the bonds of a common patriotism may knit the fab of our Constitution.

Bless those of us who are here today; and bless the absent. Wherever sickness or death or sorrow fall, bring there the spirit of renewal, and the vision of the pure in heart. Within the homes of all who serve Thee in this house, whether they be near or far, bring the assurance of Thy love and the knowledge of Thy care. Abide with us, sustain us, guide us! We ask it in the Christ's name. Amen.

The roll was called and showed the presence of 134 delegates.

The report of the Committee on Journal that the journal for the twenty-second day was correct was read and no motion adopted.

MR. GRAHAM — I ask unanimous consent to introduce a short resolution to be referred.

The resolution was read as follows:

Resolved, That it is the sense of this convention that the present $510,000 and the special one mill tax which approximates $250,000 for public schools shall not be reduced or repealed by this convention either directly or indirectly.

Referred to Committee on Education.

MR. WILLIAMS (Marengo)—I ask unanimous consent to introduce an ordinance.

Ordinance 381 by Mr. Williams of (Marengo) by request.

Whereas, the imprisonment in the penitentiary of certain classes of our people makes of them among their own people more a hero than the convict,

Therefore, be it ordained by the people of Alabama in convention assembled, that the legislature shall at its first session hereafter, establish a whipping post.

Referred to Committee on Legislative Department.

Ordinance 382 by Mr. Pettus:

Be it ordained by the people of Alabama no white person shall intermarry with any negro or descendant of a negro to the third generation inclusive, nor shall any negro or the descendant of any negro to the third generation inclusive intermarry with any white person. It shall be the duty of the legislature to enforce this section by appropriate legislation, provided that the penalty for the violation of this section shall be not less than three years in the penitentiary.

Referred to Committee on Legislative Department.

MR. BROOKS—I move a suspension of the rules in order that I may offer a resolution expressing the sense of the convention against the adopting of an ordinance providing for female suffrage.

A vote being taken the house refused to suspend the rules.

MR. BROWNE—I desire to introduce an ordinance and ask unanimous consent.

MR. WADDELL—I call for the regular order.

THE PRESIDENT—Objection is made.

MR. BROWNE—The resolution ought to go along with other resolutions introduced and referred to the Committee on Education, and I ask the gentleman to withdraw objection in order that my resolution may go along with the other resolutions.

MR. WADDELL—I withdraw for that.

The ordinance was read as follows:

Ordinance 383, by Mr. Browne:

Be it ordained by the people of Alabama in convention assembled that Section of Article XIII of the Constitution be amended to read as follows (relates to schools):

Sec. 5. The income arising from the sixteenth section trust fund, the surplus revenue fund, until it is called for by the United States Government, and the funds—enumerated in Section 3 and 4 of this article, with such other moneys, to be not less than $550,000 per annum, as the General Assembly may provide by taxation or otherwise, shall be applied to the support and maintenance of the public schools, and in addition thereto, there shall be levied and collected an annual special tax of one mill one each one hundred dollars of taxable property within the State, for the use of such schools, and it shall be the duty of the General Assembly to increase, from time to time, the public school fund, as may be necessary and the condition of the treasury and the resources of the State will admit.

Referred to Committee on Education.

MR. LONG—Mr. President, no one more than myself regrets that I have again to ask the indulgence of this convention in rising to a question of personal privilege. In The Advertiser of this morning in speaking about my remarks, there is again an insulting insinuation as to myself which I consider uncalled for. It is certainly unwarranted by the facts and as an honest man and as a delegate in this convention I am forced to ask the indulgence of the convention while I explain. I ask the clerk to read the editorial headed "Remarkable Foresight" as part of my remarks.

The editorial was read as follows:

REMARKABLE FORESIGHT

It will be recalled by readers of The Advertiser that early in the session of the Convention, when it was decided to have a stenographic report, there was strong opposition to it. One of the leaders in that opposition was the Hon. Tom Long of Walker County. In the light of his course in the last few days, it will be interesting to recall some of his reasons for objecting to the employment of an official stenographer. We quote some of his words taken from the official record:

"I do not believe we should have a record of what we say."

"I can see no good reason why we should have reports of everything that is said in this Convention."

"I do not think we should have a political record there in black and white that some of the delegates will have to be dodging for twenty years to come."

The public at the time may not have understand fully Mr. Long's attitude in this matter, but a flood of light seems to have been let in upon his zeal in the last few days. Could he have realized in advance how many things he was liable to say that would not read well in print? Did he have a foreboding of the way the Convention was going to disregard his views and table his resolutions? Could he have foreseen that he was going to make a record in black and white that would not be calculated to make his constituents regard him as a Solomon hereafter? Is it not likely that he had a sort of a presentment of some necessity for "dodging for twenty years to come?"

No man has ever had greater foresight from his individual standpoint than Mr. Long. The member of a Constitutional Convention who leads a forlorn fight on the freedom of the press at this late day in the American Republic, was wise in opposing a record of "everything that is said." The probabilities are that it will require a great deal of dodging to get around it in the future.

MR. LONG (Walker)—No, Mr. President, it seems that The Advertiser has brought in a new deck of cards and proposes to hold me personally responsible, or publicly insult me because I saw fit upon this floor to oppose the employment of a stenographer or stenographers, for a stenographic report of the proceedings of this Convention. I did it because I thought it was unwise for this Convention to pay $70 per day to employ stenographers to report to the people of Alabama what we had to say, which I considered then was not worth a dime, and which I still consider is not worth it. So far as being a demagogue or dodging an issue, I have never dodged an issue in my life. My constituents have never yet called me a demagogue, and have never yet failed to honor me politically whenever I saw fit to offer for office in my county.

I have never dodged a Democratic ticket. I have never dodged an issue of the Democratic party. I have never by word or act insulted, grossly insulted, people, in the press or otherwise, that they would have to use physical violence in order to rebuke me.

Now, so far as The Advertiser is concerned, if they would state the plain truth, I would care no more for what they say that I would for a fice dog barking on one of the hilltops in North Alabama, but they do not state the facts when they say that my resolutions have been defeated in this Convention. The resolution of rebuke against The Advertiser has never been voted on by this Convention. A majority vote upon that was denied by an aye and no vote, and the Committee on Rules will report this fact, as they should do, even if they report the resolution without recommendation. I am perfectly willing to abide the decision of the majority of this Convention, let it be what it may. I am not like many of the delegates here, that have gotten so used to slanders that I can dodge my head under the desk and say it was

not intended for me. I do say that it was an insult to a majority and over two-thirds majority of this Convention when the official organ of this Convention, the official organ itself should designate by a vote upon a question, and should hold up members to task and call them timid and afraid to go on record by an aye and no vote.

I think it was an insult to the intelligence of this Convention, but I could have dodged that issue, had I been so disposed, because I was only one of 90 to which it referred, and that would not have been a question of personal privilege. Mr. President, if it had been hurled at the Convention as a whole, but it was hurled at a two-thirds majority of this convention, and they were designated by the ayes and noes in that same paper, and I consider it then, and still consider it a personal privilege; that it was a personal insult, and that the members upon this floor were insulted, and grossly insulted. I owe no apology to The Advertiser, nor to any one else, for my official action. I have a right to oppose the big six, or the little six, in this Convention. I have a right to vote as the dictates of my conscience direct, and it is an insult, and a gross insult, for one of these little sap-headed editors, with a head on him like a two by five watermelon, to get up in a back room over a store, or over some establishment, and come out with a dollar and a quarter's worth of type and a dime's worth of blacking and say "we, the people, criticise your action."

Now, Mr. President, I am perfectly willing to let the matter go, but until an aye and no vote has been taken upon this floor on that resolution, I claim the right to ask and I give notice now, that I shall ask the Committee on Rules to report that resolution of mine, whether they do so without recommendation, or under an adverse or favorable report. I have never yet seen fit before to be abused in the public print, and let them go back and charge me with infidelity and treason, and with malice and with assuming the garb of a demagogue, by dodging issues. It is more than many members on this floor can say, because numbers of them have come to me and said: "Long, you are right, it was an insult, but we are afraid of The Advertiser."

I am not afraid of any paper, nor class of papers. Neither am I afraid of anything, except my own conscience, and when my conscience tells me that I am right, I gladly go on record, though every man in Alabama is opposed to it.

Mr. President, those are the only remarks that I desire to make. I hope it will not be necessary for me to again refer to this matter. I am perfectly willing to let The Advertiser editorial be read as the bill of indictment, and without remarks by the big six or the little six, let the Convention then and there vote upon it, that we may have an honest expression of the majority of the Convention, which is the only way that it can be obtained.

The following leaves of absence for today were granted.

Messrs. Malone, Sollie, Renfroe.

MR. REESE—I ask unanimous consent to offer a resolution.

Objection was made.

THE PRESIDENT—The Secretary will call the roll of Delegates for the introduction of ordinances, etc.

MR BLACKWELL—I am requested by a prominent colored man of my town to introduce this petition.

The petition was read as follows:

Mr. President and Members of the Alabama Constitutional Convention:

Realizing the fact that no member of the negro race is represented in your august body to speak one word for us, we must appeal to you in this manner. Being Southern born, of ex-slaves, Southern raised, within the city where you are now in session, and having spent my energies among my people in this State for thirty years, I represent the product of Alabama negro manhood. I speak the sentiments of thousands of my race whose timidity locks their mouths.

We have made many errors since emancipation. We were weaker than now, and prone to mistakes, but, gentlemen, could you have looked for perfection in a race of ignorant liberated people. No matter how ignorant we were thirty years ago, and no matter how intelligent we become one hundred years from now, yet the fact remains the same—that then, now and henceforth we realize that the negro's best friend is the Southern white man. You have proven your genuine friendship to us all along. You have given us work at any trade at which we were proficient. You have given us good schools, gone into your own pocket to educate us. You have given us counsel when we were in need of advice, for all of which we are grateful, and we hope we have proven the same to you. Do not expect more of us than of any other race at the same stage of development. We know that the salvation of the negro is in your hands. You can make us industrious, contented, loyal and useful citizens, or you can make us shiftless, discontented and good-for-nothing. You are framing a constitution for future government of generations of negroes of Alabama, as well as of other races. We are interested, because we are lawabiding and must live up to your new constitution or get out. Say to us, forsooth, that you are black, that your hair is kinky or features Hamitic, or say that, forsooth, some negro blood is in your veins, you cannot enjoy the franchise in Alabama, and you at once relegate us to the ranks of a brute. We would have not one incentive to go forward. You would cripple an already weak race.

We are among you, and satisfied. It was not of our own free will that we are here. Like other nations of the far East, we did not migrate here and force ourselves upon you. Had we done so it might be fair and conservative that you say to us, "Get out," or drive us out by discrimina-

tive methods that were basely unjust. But, gentlemen, we were snatched from our motherland, heathens. By the providence of God we were brought here, and for three hundred years toiled for you as your slaves.

American slavery, though wrong, was a blessing to us. In its school of three hundred years we learned trades, language, customs and the religion of Jesus Christ. There is a just God who guards the destiny of nations and in His own time slavery was abolished and we were left among you ignorant of franchise and government with no education or character.

Be conservative to us, gentlemen. Do not deal a crushing blow. A blow from you at this critical moment—with no flag except the glorious stars and stripes for which we have bled and died; no friend except you, whose fathers and mothers we have guarded from harm, and you yourself whom we have cherished and cared for while the Southern man fought for a Lost Cause—would be as Brutus's dagger of steel warming its blade in the life-blood of Caesar. The tickle of our hoe has made your lands laugh forth in harvests. Our axe has cleared your forests. We have built your cities. Our picks have sunk down into the bowels of the earth and thrown up iron and coal. We emerged from slavery and went at once to work at whatever price you valued our labor. We do not cause any organic disturbance by strikes. We are striving to fit ourselves for citizenship. We petition and implore you to not disturb our content by an unjust franchise. If you place an educational qualification that touches all alike, we are satisfied. In short, we, though only thirty-five years old, are willing to be weighed in the scale of manhood and measured with a tape of justice.

Alabama one of the greatest States of the Union; one upon whom the eyes of the world are turned at present, a State whose alphabetical arrangement stands first of the States of the greatest country of God's creation (a country upon whose territory the sun never sets), can not afford to disfranchise several hundred thousand of its citizens; can not afford to remove the public educational fund from them. An educated dog is worth a hundred good-for-nothing curs. We do not demand anything of you. We can not demand if we would. We simply entreat you as honest citizens to frame a consititution that will not disgrace the wisdom of Alabama; that will not cause us to degenerate; that will not cause us discontent; that will not cause us to doubt your friendship which we have cherished for near four hundred years. Frame a constitution that will be a pride of the State—one that we will be proud of, as well as you; one that will benefit both races. Frame a constitution that will place you at the head of the column of sister States where you belong. Do not drive us into degredation. What incentive would a $10,000,000 property qualification be to us?

Don't drive us from you; we are here and want to remain. God intended us to be here and He intends us to remain. Had it not been so we would have perished long ago. Before the onward tread of Anglo-Saxon civilization races have vanished more rapidly than extinction from shot and shell or bayonet. The New Zealander, Pacific Islander and American Indian have all gone to their grave; they were not able to withstand the environments of the Nineteenth Century civilization. No race,

save the American negro, has been able to gaze into the blue eyes of the Anglo-Saxon for centuries and live. God so constructed us of better stamina. We have lived, increased and prospered. Remember, gentlemen, that might is not at all times right. Judge not the whole race by its criminals. All races have them, and the better element of us, as of you, abhor crime and do not wish to be called criminals because we have criminals in our race.

The constitution that you frame shall live as an everlasting monument, not of stone or brass, nor Egyptian, to crumble and decay under the chemical changes of time, but shall stand out prominent above all other Alabama documents after death and the grave have claimed you. It shall live on after God has called you to rest. Inborn generations of negroes and whites shall look up to it after your flesh has been devoured by the earth-worm, your bones bleached in the tomb, and your soul given account for your earthly transit.

Whether this monument will be one of honor or disgrace to the name of our fair State, to its citizens, both black and white, and to you, will depend upon your election.

Respectfully,

Willis E. Sterrs, M. D.,

Decatur, Alabama.

MR. BURNS—(During the reading)—I rise for information. With all due respect to the gentleman from Morgan, I would like for him to inform the House how much longer that article is.

MR. BLACKWELL—I will inform the gentleman from Dallas that I am not responsible for its length.

THE PRESIDENT—Will the gentleman from Morgan inform the gentleman from Dallas?

MR. BLACKWELL—There is one line more.

MR. GREER (Calhoun)—I move that that petition be not recorded as a part of the official proceedings of this Convention.

MR. JONES (Montgomery)—I think that the petition is long and rambling, but the right of petition is a very sacred right, and these people have not a representative on the floor of this Convention. I think it would be a bad precedent after allowing a communication, which is in the nature of a petition, to be read, not allow it to go upon our records, and therefore I hope that the motion will not prevail.

MR. HOWELL—I move to lay the motion on the table, Mr. President.

MR. REESE—I rise to a point of order.

MR. GREER—On that motion to table I call for the ayes and noes.

THE PRESIDENT—The gentleman from Dallas rises to a point of order, and the gentleman will states the point of order.

MR. REESE—The motion is out of order in the absence of a suspension of the rules. It ought to go to the Committee on Rules. The motion by the gentleman that it be excluded from the record should be referred to the Committee on Rules.

THE PRESIDENT—In the opinion of the Chair the petition would be printed in the official proceedings of this body, whether referred or not referred; consequently the motion of the gentleman to exclude it from the official proceedings would be in order. The Chair will overrule the point of order.

The question is on the motion of the gentleman from Cleburne, to lay upon the table the motion of the gentleman from Calhoun, to exclude this paper from the official proceedings of the Convention.

MR. HEFLIN (Chambers)—I call for the ayes and noes upon that.

THE PRESIDENT—And the question is shall the call be sustained.

Twenty-six members rose, and the call was not sustained. A division was called for, and by a vote of 81 ayes to 18 noes, the motion was laid upon the table.

MR. HOWELL—This Convention can very well afford to be be courteous to every citizen of the State—

MR. GREER—I rise to a point of order. There is nothing before the Convention.

MR. HOWELL—I got up, sir, to move that the communication be referred to the Committee on Suffrage and Elections.

THE PRESIDENT—In the opinion of the Chair the point of order was well taken, but the gentleman states the object of his rising.

MR. GREER—I withdraw the point, since the gentleman states the object of his rising.

THE PRESIDENT—The motion is that it be referred to the Committee on Suffrage and Elections.

MR. HOWELL—I desire to say we can very well afford to be courteous to every citizen, black or white, and as has been so well said by the gentleman from Montgomery, the right of pe-

tition is a very sacred right, and ought not by this Convention or any other body, Legislative or otherwise, to be treated with disrespect or want of courtesy.

The petition was referred to the Committee on Suffrage and Elections.

MR. BROWNE—I have a resolution.

Resolution No. 160—Resolved, That that sympathy of this Convention be and the same is hereby extended to its worthy secretary, Frank N. Julian, in his sorrow and bereavement, in the death of his brother, William Julian.

Mr. Reese endeavored to secure recognition.

MR. BROWNE—I yield to the gentleman from Dallas.

MR. REESE—I move a suspension of the rules for the purpose of putting the resolution upon its immediate passage, and I ask unanimous consent.

There being no objection, the rules were suspended, and by a unanimous vote the resolution was adopted.

Resolution No. 161, by Mr. Burns (Dallas).

Resolved, That it is the sense of this Convention that what should not be done directly, should not be done indirectly, and after the rules have been suspended for any special purpose, amendments should not be in order.

Referred to the Committee on Rules.

Resolution No. 162, by Mr. Burns (Dallas):

Resolved. That whenever a delegate precedes his motion to table with a speech, or at the close of a speech calls for the previous question, he shall be declared out of order.

Referred to the Committee on Rules.

Resolution No. 163, by Mr. Burns:

Resolved, That it is the sense of this Convention that each and every officials of each and every district, municipality, county, circuit, division, from township trustees to chancellors, shall be elected by the qualified electors thereof, and that all State officers, including Railroad Commissioners and Convict Inspectors.

Referred to Committee on Executive Department.

MR. CARMICHAEL (Coffee)—I have a resolution.

Resolution No. 164:

Be it resolved, That in the future petitions, memorials, etc., containing more than 100 words be referred without reading to the proper committees, and printed in the stenographic report.

Referred to the Committee on Rules.

MR. CASE—I have a petition which I introduce by request.

MR. CARMICHAEL (Coffee)—Will a motion to suspend the rules be in order?

THE PRESIDENT—A motion will be in order.

MR. CARMICHAEL (Coffee)—I move that the rules be suspended in order that the resolution I offered in regard to memorials and petitions may be put upon its passage. Much time is being consumed in this manner and it seems like the petitions and memorials increase daily, and the length of them also increases, and it costs about $7 a minute to run this convention, and we might save a little time on that line, and have a little more time for speech making perhaps.

THE PRESIDENT—The Chair will examine the rule. The about to call the attention of the convention to the fact that the rule in reference to ordinances and resolution does not extend to petitions, as far as the recollection of the Chair goes.

MR. CARMICHAEL (Coffee)—I was not aware of that Mr. President, and if that be the case I withdraw my resolution with the consent of the convention.

THE PRESIDENT—The Chair will examine the rule. The Chair calls attention to rule forty-seven, which does not seem to refer to petitions. The rule does not require that petitions should be read at length unless the convention so desires it, and the Chair is inclined to rule that when a petition is presented, unless a motion is made that it be read, the secretary will not be directed to read it. A petition formally presented would be filed, and printed in the proceedings of the convention, but unless there is a motion that it be read before the convention, and referred to a committee, the Chair will direct the secretary not to do so.

Does the Chair hear any motion with reference to the petition now offered.

MR. REESE—I move that the President examine the paper and that it be referred to the proper committee and that it be printed in the proceedings.

MR. CASE—I move that the petition be read.

The motion was carried, and the petition read as follows:

Petition 3, by Mr. Case:

Collinsville, Ala., June 13, 1901.

To the Alabama Constitutional Convention, Montgomery, Alabama:

Whereas under national interstate laws large trusts have and are being formed all over the country, with almost unlimited capital, and,

Whereas the trust companies form without the State of Alabama commonly known as department stores, without contributing one cent in revenues towards the payment of the expenses of maintaining and supporting our State Government either in privilege or advalorem taxes, and flooding the State with circulars, catalogues and agents, plying their trade, advertising their goods and supplying the consumers with many articles, same being actually delivered by the said agents and whereas the president merchants of this State are required to pay taxes before they can sell their goods, now therefore in consideration of the premises your petitioners respectfully pray that the delegates to the said Constitutional Convention of the State of Alabama examine into the merits of this momentus question to the end that some clause may be ingrafted in our State constitution, by which these non-resident trusts and department stores may be reached, and required to pay their prorata share of our State taxes, or upon their failure or refusal to do so, that they may be denied the privilege of delivering their goods, wares, and merchandise in the State of Alabama.

Halls Dry Goods Co.,
George W. Roberts,
B. A. Nowlin,
Pyron & Company,
M. G. A. Nicholson,
Nicholson Drug Co.,
H. P. McWharter,
R. A. Burt,
B. Keinan,
R. E. Roberts,
Charles Roberts & Co.,
George W. Keener,
R. S. Williams & Co.,
H. R. Jordan & Sons,
C. C. Jordan,
W. A. Wilburns Co.,
J. E. Gibson,
R. H. Smith.

Referred to Committee on Taxation.

Ordinance 384, by Mr. Cofer:

An ordinance to be entitled an ordinance to amend Section 25, of Article VI of the Constitution.

Be it ordained by the people of the State of Alabama in convention assembled, that Section 25 of Article VI of the Constitution be amended so as to read as follows:

Sec. 25. A solicitor of each judicial circuit of the State of Alabama shall be elected by the qualified voters of said circuits, who shall be learned in the law, and who shall at the time of his election and during his continuance in office, reside in the circuit for which he is elected and whose term of office shall be for four years.

Provided that said election of said solicitors shall be had at the next general election held after the ratification of this constitution, and every four years thereafter.

Provided further, That the General Assembly may fix and regulate the salary, or fees, of said solicitors.

Provided all fees which may be by law taxed as solicitors fees against defendants on convictions secured by a solicitor who is paid a salary by the State belong to the State, and when collected must be paid into the State Treasury.

Provided further, That the salary of said solicitor each shall not be fixed at a greater sum than $2,000 per annum, and provided further that in no event shall the salary of said solicitors, exceed the earnings of said solicitors collected as fees, in their respective circuits.

Provided further, That in the event said solicitors shall at any time fail to attend any term or day of term; they are required by law to attend, they shall be required to furnish; or provide for the attendance of a deputy solicitor, and compensate him for his services, and all fees collected on account of the services rendered by said deputy on convictions shall be collected and paid into the State Treasury as the fees of solicitors are collected and paid into the treasury.

Referred to Judiciary Committee.

Ordinance No. 385, by Mr. Davis (Etowah):

Be it ordained that Section 7 of Article XI, be amended by adding the following:

And provided further, that this Section shall not apply to the town of Attalla, which town may levy and collect a tax not to exceed three tenths of 1 per centum in addition to the tax of one-half of 1 per centum now allowed to be levied and collected,

such special tax to be applied exclusively to the payment of interest on bonds of the town of Attalla heretofore issued in pursuance of a law and for a sinking fund to pay the principal of said bonds. Such special tax to be levied and collected in the same mode and manner as taxes are now levied and collected by the town of Attalla.

Provided: That this authority to levy and collect such special tax shall not go into effect and become operative until the funding arrangements now pending between the town of Attalla and the holders of its bonds, have been finally concluded.

And provided, further, that this authority to levy such special tax shall remain in force and effect until such time when all of the bonds heretofore issued by said town of Attalla and as may upon the consumation of the pending adjustment remain outstanding, have been fully paid off and discharged both as to principal and interest, when the authority to levy this special tax above provided shall cease.

Referred to Committee on Municipal Corporations.

MR. deGRAFFENREID — On yesterday I introduced an amendment to Section 13 of the report of the Committee on Executive Department. The caption of that amendment reads "amend Section thirteen by striking from the section all after the words 'if any bill' in the eighteenth line thereof, and insert the following. By a casual ommission, Mr. President, that amendment does not do what I stated it did, and I thought it did, and I ask now to be allowed to make an amendment to make it right. Amend Section thirteen by striking from the Section all after the words "to reconsider it" in the fourth line, down to and including the word "respectfully" in the eighteenth line, and insert in lieu thereof the following, and here follows the amendment I offer.

THE PRESIDENT—It seems to the Chair the amendment offered by the gentleman would be more properly in order when the matter comes up for consideration before the Convention.

MR. deGRAFFENREID—That is all right, Mr. President. I did not notice the error until it was called to my attention this morning.

MR. OATES—I rise to a parliamentary inquiry.

THE PRESIDENT—The gentleman will state the point of inquiry.

MR. OATES—Several delegates are of the recollection that the entire roll was not called on Saturday, which I believe was the last day on which it was called—

THE CLERK—That is true.

MR. OATES — And that it is important to begin the call where it left off, and that it should now begin at A as the clerk began today.

THE PRESIDENT—The Delegate is entirely correct, and the Chair was not aware that the roll call had not been continued from the point where it was left off.

Ordinance No. 386, by Mr. Lomax:

An ordinance relating to the government of the University, and the payment of the interest on the University fund.

Be it ordained by the people of the State of Alabama in Convention assembled that after the ratification of this Constitution there shall be paid out of the Treasury of this State at the times and in the manner provided by law the sum of not less than $36,000 per annum as interest on the University fund, heretofore covered into the Treasury, for the maintenance and support of said institution.

Be it further ordained, that the Trustees of said University may, at any time they deem it proper for the best interests of said university, abolish the military system at said institution or reduce the said system to a department of institution, and that such action on the part of said Trustees shall not decrease the amount of the annual interest payable out of the State Treasury for the maintenance and support of said institution.

Referred to Committee on Education.

MR. HARRISON—I call for the regular order.

THE PRESIDENT—The hour of 11 has not yet arrived.

MR. HARRISON—I see that the clock is at 11.

THE PRESIDENT—The Chair has been listening and the clock has not yet struck.

Ordinance 387, by Mr. Murphree:

Be it ordained by the people of Alabama in Convention assembled, that the General Assembly of Alabama has authority and is hereby required to enact a law regulating the fees and allowances for service rendered in and about the administration and guardianship of small estates with a view to curtailing the expenses of same, which shall apply to the fees of the Probate Judge, Sherill and all other cost and charges attending said administrations and guardianships.

Referred to Judiciary Committee.

MR. SLOAN—I ask unanimous consent to introduce a short resolution.

THE PRESIDENT — Is there any objection? The Chair hears none—

MR. WADDELL—I call for the regular order.

THE PRESIDENT—The gentleman is too late. The Chair called for objections.

The resolution was read as follows:

Resolution 165, by Mr. Sloan:

Whereas on account of the limited time of three hours each day for the sitting of this Convention; and whereas it is impossible to accomplish any material work on the regular order in a session of one hour; therefore be it resolved, that when this Convention adjourns on Saturday it meet on Mondays at 10 o'clock.

Referred to Committee on Rules.

THE PRESIDENT—The hour of 11 o'clock has arrived and the rules of this Convention require the call of the roll to be suspended.

MR. GREER—I did not hear my name called. It was called so rapidly. It was a very short ordinance to introduce which I ask unanimous consent to be allowed to introduce.

The consent was given, and the ordinance read as follows:

Ordinance 388, by Mr. Greer of Calhoun:

An ordinance to fix the date for the election of city officers in the State of Alabama.

Be it ordained by the people of Alabama in Convention assembled, that the elections for municipal officers in the various towns and cities of the State shall hereafter be held each four years on the same day on which the general State election is held and the terms of the present incumbents are hereby extended or abridged as the case may be so as to terminate on the first day of the calendar month following the next general State election; city officers elected at the first election after the ratification of the Constitution shall hold office for four years, their terms to begin on the first day of the calendar month following the election.

Referred to Committee on Municipal Corporations.

MR. HARRISON—I ask unanimous consent to introduce a very short resolution.

MR. JONES (Montgomery)—I do not object now, but I do give notice that I will object to the next ordinance that is offered under a suspension of the rules this morning.

The leave was given, and the resolution read as follows:

Resolution 166, by Mr. Harrison:

Resolved, that all speeches on amendments and ordinances reported by Standing Committees be limited to five minutes each.

Referred to Committee on Rules.

MR. DUKE—I was just about to move to suspend the rules and put that resolution upon its passage. I desire to make that motion.

THE PRESIDENT—The resolution has already been referred, unless the gentleman recalls it.

The regular order was here called for.

THE PRESIDENT—The regular order is the consideration of the report of the Committee on Executive Department. And the pending question is the motion of the gentleman from Jefferson to refer Section 13 with instructions back to the committee. The gentleman from Montgomery has the floor. The gentleman from Hale indicated a desire to amend a resolution which he offered, and which is a part of the matter before the Convention for discussion.

MR. JONES (Montgomery)—I yield for that purpose.

MR. deGRAFFENREID—By a casual omission, the caption of the amendment does not state what it was intended that it should. I therefore ask that I be allowed to amend the caption. It is in writing, and it can be read.

The amendment was read as follows:

"Amend Section 13 by striking from the section all after the words "to reconsider it" in the fourth line, down to and including the word "respectively," in the eighteenth line, and insert in lieu thereof the following, "every bill, etc."

MR. JONES (Montgomery)—Mr. President, as briefly—

THE PRESIDENT—The gentleman from Hale (deGraffenreid) has indicated a desire to amend a resolution which was offered, and which is a part—

MR. JONES—I yield the floor for that purpose only.

MR. deGRAFFENREID -- By casual omission, the amendment does not speak what it was intended to speak. It is in writing, and I, therefore, ask that the caption be read.

THE PRESIDENT — The gentleman from Hale asks to amend the caption of the amendment offered by him on yesterday. The Secretary will read the proposed amendment.

The Secretary read as follows: Amend Section 13 by striking from the section all after the words "to reconsider it," in the fourth line, down to and including the words "respectively," in the eighth line, and insert in lieu thereof the following:

MR. JONES (Montgomery)—Mr. President, as briefly as I may, in behalf of the committee, I will touch upon the objections made to the section, which are practically involved in the motion to recommit, and then allow others to debate these amendments. Really, there is but one proposition before the Convention, though it is sub-divided into two by the motion to recommit, and that is the objection to allowing the Governor to suggest amendments. My distinguished friend from Jefferson (Mr. Lowe), speaking upon this question, said, "it seeks to break down the walls that stand between the executive and legislative," and in another place he says "this is a strange innovation, totally foreign to anything we have known before," and in another place it is characterized as the "most radical proposition that has ever come before this Convention, and I hope the most extreme that will at any time be submitted to it." As I heard his words, I wondered if our committee unconsciously was so unsophisticated, and so unfamiliar with the frame work of our Constitution, that in making this simple proposition, we were "breaking down the walls between the legislative and the executive" and introducing into this house some startling anomaly, foreign to the spirit of our institution. Why, Mr. President, the Constitution makes it the duty of the Governor to recommend legislation. He can do it in a general message, or in a special message; he can do it in conference with committees, or he can do it in conference with the members. Furthermore, the Constitution makes him a powerful member of the Legislature in the matter of voting. He cannot vote until after the two houses have acted, and then the Constitution declares he is so influential a member that he is equal to fifty members in the House and sixteen in the Senate. In the eye of the Constitution, he outweighs half of the legislators, in all legislation. Then, Mr. President, where is there anything startling or strange in this proposition?

The next question is, can it serve any useful purpose? Every one acquainted with legislation, especially in latter days, knows in the hurry which seems to be a necessity when so much legislation is before the houses, that there are innumerable slips in bills. Sometimes the author says what he does not mean; sometimes he overlooks some good provision in other laws, which he does not wish to destroy, but in fact he repealed; sometimes accidentally he runs counter to some provisions in the Constitution of the State. It is highly proper in these cases that the Executive should

have an opportunity to get these matters corrected, without putting the General Assembly in the attitude of passing the bill as it is, or letting it die. I will not enlarge any further on these considerations, except by illustrating some cases in my own experience, which I believe is the experience of every one who deals with legislation. Here is a bill which was vetoed: "To amend the charter of Ft. Payne, in DeKalb County." Why? Because, inadvertently, the draftsman had said that a citizen in DeKalb County should live in his ward twelve months, to qualify him as a voter, when the Constitution limited it to three months. The Governor, very reluctantly, was compelled to send the bill back. Would it have been any invasion of the province of the General Assembly of any reflection upon its independence, if he had said: "Gentlemen, strike out that section, make the bill conform to the Constitution, and send it back to me and I will approve it. He could not say that and the Legislature could not do that. The result was that the universal desire of the people of that town to change their city government was for the time being defeated, really by a slip of the author of the bill, who had overlooked a provision in the Constitution.

Now here is another case, Mr. President: It is a bill "To incorporate Lineville College, in Clay County, Alabama." The citizens there were anxious to have a good college. The bill provided that the school fund and poll tax in the district should go to the children who attended it, and a wise bill was framed to that end. In the hurry of legislation, the draftsman put one little provision in it which poisoned it in the mind of the Governor, and that was in effect that the Board of Trustees of this public school, supported largely by public money, should control it independent of the supervision of the State Superintendent, and might put an incidental fee there of three dollars. In the opinion of the Governor, these two provisions vitiated the bill, and he sent it back. If the General Assembly could have amended it by striking that one section out, they would have had that college one year earlier. As it was, it was too late to pass a new bill, and the members were compelled to let the bill die, because they could not amend it, and could not pass it over the veto.

Another case, Mr. President. In the hurry of engrossing bills —in an enacting clause, the words "General Assembly of Alabama" were left out and the bill read, "Be it enacted," without saying by whom. That was fatal to it. The Governor was compelled to veto it. The bill related to hiring out of convicts. There was not a member of either house who would not have been glad of the opportunity, if he could have done it, to amend the bill, by putting in the words "General Assembly of Alabama," and sending it back for the Governor's approval. There is no danger, Mr. President that the Executive will veto bills for the fun of it, or to display arbitrary power. The truth is, where we scrutinize

legislation, we have too few vetoes, rather than too many vetoes. The power and dignity of the Legislature is not touched, by the provisions suggested. The Governor simply sends the bill back with a suggestion, and says to them: "Gentlemen, either pass it over my veto, or amend it and put it in shape, and we will try and enact it into law. I don't wish to disappoint your purposes."

MR. HARRISON (Lee) — May I ask the gentleman a question?

MR. JONES—Certainly.

MR. HARRISON—Wouldn't the very Act to which you refer have been accomplished by a recall of the bill from the Governor; wouldn't it have been just as well to have the House creating the bill, recall it?

MR. JONES—Unquestionably it might; but there are times, and I have known them to happen, when the Governor would send to some member of the House and ask him to recall a bill, and he would say: "No, it is not a matter of my special concern. I have some friends who voted for it. I don't want to antagonize them and we will let it alone, and you can tussle with it." But suppose that plan is feasible, Mr. President, where is the harm of allowing this man, who is elected by a million and three-quarters of people, and who is as much a representative of the people as any man on the floor of either House, to say, publicly, what he often does privately, Gentlemen, I have a difference with you. I submit it to you; I don't wish to put you in the attitude either of passing the bill as it is, or of letting it die. I propose an amendment, by which we can agree, which is practicable. It is a plain, good old-fashioned, neighborly way of doing things. These were the reasons why we thought it would be a wise plan in practice to incorporate in the Constitution. Individually and as the organ of this committee, I am very averse to doing anything which looks like cutting off debate, and I won't do it. In order, however, that this matter may be put in shape before the House, I shall move the previous question on the resolution to recommit; and then, if that is voted down, the house can take up these amendments, and we can put the section in shape. If the house does not agree with the committee and makes any change in the amendments, which cannot properly be put in shape on the floor, thus necessitating recommittal, the committe will do the best it can with the section after it is referred. It seems to me it would be utterly useless to recommit when the house has not discussed the question and has made no decision. I, therefore, move the previous question on the motion to recommit. If that is voted down, then we will pass on the merits.

THE PRESIDENT — The gentleman from Montgomery moves the previous question, on the motion to recommit the sec-

tion and amendments to the Committee on Executive Department. The question is shall the main question be now put.

Upon a vote being taken the main question was ordered.

THE PRESIDENT—The question recurs on the motion of the gentleman from Jefferson, to recommit the section with the pending amendments back to the Committee on Executive Department.

MR. HARRISON—I believe that the motion contains some instructions. I would like to have it read.

THE PRESIDENT—The instructions, if the Chair can state them from memory, are that the Committee shall eliminate that portion of the section which authorizes the Executive to suggest amendments. Does that meet the inquiry?

MR. HARRISON—That is satisfactory.

On motion to recommit, a division was called for, and by a vote of twenty-four ayes to seventy-eight noes, the Convention refused to recommit.

THE PRESIDENT—The question recurs on the amendment to the amendment offered by the gentleman from Hale.

MR. MURPHREE—Am I in order to offer a substitute?

THE PRESIDENT—There is now pending an amendment to an amendment.

MR. MURPHREE—I want to offer a substitute for the report of the Committee on Executive Department, and the amendment thereto, that is as to section thirteen.

MR. FITTS—Want to substitute for the whole section?

MR. MURPHREE—For the whole section.

THE PRESIDENT—It seems to the Chair until the amendment proposed by the gentleman from Hale is disposed of, further amendments will not be in order.

MR. MURPHREE—I think this would be a better plan than that of the gentleman from Hale, and would meet the approbation of the House.

THE PRESIDENT—The limit, under the rule of amendments, seems to be reached when an amendment to an amendment is proposed, and until the Convention disposes of that amendment, further amendments in the opinion of the Chair would not be in order.

MR. OATES—Mr. President, the proposition as I understand it is broad enough to cover all. While of course the substitute

is in the nature of an amendment, where it is offered as a substitute for all that is pending, though there be an amendment, and an amendment to an amendment, I think it is in order always, where it is a substitute for all the propositions together—not an amendment to an amendment, but it is a substitute for all that is pending.

THE PRESIDENT—The Chair understands the proposition to substitute is simply a form of an amendment, and while there is an amendment pending to the section, and an amendment to that amendment, it is not in order to offer further amendments, although the gentleman can offer his amendment at a later stage, after the Convention has disposed of the pending amendments. The chair would rule, therefore, that the amendment offered by the gentleman from Pike, is not in order at this time. The question is on the amendment to the amendment offered by the gentleman from Hale.

MR. HOWZE—I rise to a point of inquiry.

THE PRESIDENT—The gentleman will state the question of inquiry.

MR. HOWZE—To what amendment is the amendment of the gentleman from Hale a substitute or amendment?

THE PRESIDENT—It is an amendment to his own amendment.

MR. HOWZE—I would like to have the original amendment read then.

THE PRESIDENT—Will the Convention please give attention to the reading of the amendments, in order that we may consume as little time as possible? The original amendment has been published.

MR. deGRAFFENREID—Yes, sir; it is published and in today's paper, and on the desks of the members.

MR. HOWZE—I withdraw the request. I did not know that the amendment had been printed.

The question was put upon the amendment offered by the gentleman from Hale to the amendment offered on yesterday, and a vote being taken the amendment was lost.

MR. COBB—I desire to ask if it would now be in order to offer an amendment to the amendment?

THE PRESIDENT—It would be in order, and the chair will recognize the gentleman from Pike.

Substitute offered by Mr. Murphree of Pike:

"Substitute for the report of the Committee on Executive Department, and amendments thereto, as follows: That section 13 of Article V of the Constitution of 1875 be adopted in full, with the addition, that the Governor may approve bills within ten days after final adjournment, if approved and deposited with the Secretary of State within the time."

MR. deGRAFFENREID — That is identically the same as this amendment that I offered, Mr. President.

THE PRESIDENT—The question is on the substitute offered by the gentleman from Pike.

MR. LOMAX—I rise for the purpose of making a parliamentary inquiry.

THE PRESIDENT—The gentleman will state the inquiry.

MR. LOMAX—As I understood it, the gentleman from Hale on yesterday offered an amendment to this section, and today he offered an amendment to his amendment. Now the question I understood the chair to put was the question of the adoption of the amendment offered by the gentleman from Hale to his own amendment. Does that leave the original amendment of the gentleman from Hale before the Convention?

THE PRESIDENT—It was the question before the Convention until the gentleman from Pike offered a substitute for the amendment and the original section.

MR. LOMAX—There has been no vote upon the amendment offered by the gentleman from Hale, and I wanted to know if that was still under consideration by the Convention.

THE PRESIDENT—That was the pending question until the gentleman from Pike moved a substitute to the amendment and section thirteen, and that is the pending question at this time.

MR. HARRISON—A point of inquiry. In entertaining the motion of the delegate from Pike, which goes to the entire Section, some of us would like to vote for a less number of days than ten. If that substitute is adopted will it cut us off from amending it? In other words, I inquire, without raising the point of order directly, if this substitute is germain to the pending amendment offered by the gentleman from Hale?

THE PRESIDENT—It seems to the Chair that it is. It is offered as a substitute for the pending amendment and Section 13.

MR. BROOKS—I call for the reading of the substitute.

The substitute of Mr. Murphree of Pike, was again read.

MR. COBB—I rise to a point of inquiry.

THE PRESIDENT—The gentleman will state the inquiry.

MR. COBB—If this substitute is adopted, is it amendable. Is that all, or what disposition is made of the amendment offered by the gentleman from Hale? What disposition will be made with reference to the other amendments here, in the event of the adoption of the substitute for the amendment?

THE PRESIDENT—It seems to the Chair that it would be amendable. The question will recur upon the adoption of the original section as amended.

MR. HARRISON—Would it not be the action of the Convention, if, for instance, they fix that at ten days, and it would take a motion to reconsider it? While I am in sympathy with the general spirit of the substitute offered by the gentleman from Pike, I prefer to retain the same time,—say that the Governor shall have six days. I am opposed to the ten days, but if I should vote for the substitute, I apprehend we would have no opportunity to amend it, if the Convention adopts it with that language in it.

MR. JONES (Montgomery)—I desire to make a proposition for the purpose of saving time, which I think will get at a square vote on all the points on which we differ, and I will state what they are, and then I will make the motion. If we have a motion that is the sense of this Convention that the Governor be not authorized to suggest amendments, and that passes, then that ends the whole matter, and then the article can go back to the Committee to be put in shape.

THE PRESIDENT—The question before the Convention is the substitute offered by the gentleman from Pike to the amendment, and to the Section.

MR. JONES—I rise to a point of order against that. The length of time that the Governor has after the adjournment of the General Assembly has already been decided by this Convention,—that is, at ten days,—and the only way to reach that would be to move to reconsider it.

THE PRESIDENT—The Chair will overrule that point of order.

MR. MURPHREE—It seems that several members want me to change my substitute to six days, and therefore I will make that change.

THE PRESIDENT—Objection is made, and the substitute cannot be further amended at this time.

MR. BROOKS—In order that the Convention may have a clear idea of what they are voting upon, I ask that the amendment offered by the gentleman from Hale, for which this substitute is offered, be read.

The amendment was read as follows:

"Amend Section 13 by striking from the Section all after 'if any bill' in the eighteenth line thereof, and insert in lieu thereof the following: 'Every bill which shall have passed both Houses of the General Assembly shall be presented to the Governor. If he approves he shall sign it, but if not, he shall return it to the House in which it shall have originated, which shall enter the objections at large upon the Journal and the House to which the bill shall be returned shall proceed to reconsider it. If, after such reconsideration, a majority of the whole number elected to that House shall vote for the passage of such bill, it shall be sent with objections to the other House, by which it shall likewise be reconsidered, and if approved by a majority of the whole number elected to that House, it shall become 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 upon the Journals of each House respectively."

MR. BROOKS—Now I rise to a point of order.

MR. JONES—If the gentleman will allow me, I think I can get him out of some trouble.

THE PRESIDENT—The gentleman from Mobile has the floor.

MR. BROOKS—I make this point of order, Mr. President. Whenever an amendment is proposed, it must be disposed of as a substantive proposition by the Convention, before we can proceed to another amendment, and the way to dispose of that is in one of three days: you can either amend by striking out words from the amendment, or by inserting or adding to it, or by striking out and inserting. But you cannot offer an amendment to an amendment, by putting in something else that is not germain to the subject matter before the House. Now the subject matter of the substitute offered by the gentleman from Pike simply re-enacts, or re-adopts the subject upon which this amendment is pending—

MR. O'NEAL—It simply adopts the Committee's report.

MR. BROOKS—It simply adopts the Committee report, and—

MR. WILLETT—I rise to a point of order.

THE PRESIDENT—The gentleman from Mobile has the floor.

MR. WILLETT—Under the rules a point of order cannot be argued.

MR. BROOKS—I believe it is in the power of the House to hear the reasons for the point of order.

THE PRESIDENT—The gentleman will state his point of order. He had not conclude his statement of the point of order.

MR. BROOKS—I simply wanted to state that the point of order is that an amendment as a substantive and distinctive proposition must be disposed of in one of the ways I have referred to, and you cannot dispose of it by jumping over it and taking up something which is not germain to the proposition. Now, if an original proposition can have an amendment pending on it, and somebody else can move an amendment to that, by adopting the original proposition why we would never get a vote on the amendment itself. That is simply going back, and backing and filling. If I understand the parliamentary rule right, I think it is laid down as a fundamental principle that the amendment must be disposed of in one of the three ways I have spoken of, and you cannot in an amendment to an amendment incorporate matters that are not germain to it.

Now, if you will allow me one moment: if that amendment is put to the House and defeated, then it would be in order to move another amendment to the Section, which might incorporate that very thing that is defeated, if it has certain matters added to it, in which the coherency of the two is established. I think that the point of order is well taken and that the substitute is out of order.

Mr. Jones (Montgomery) sought recognition.

THE PRESIDENT—Does the gentleman desire to rise to the point of order made by the gentleman from Mobile?

MR. JONES (Montgomery)—I want to offer a proposition that we could get rid of, by unanimous consent—

THE PRESIDENT—The question will be on the point of order made by the gentleman from Mobile.

MR. JONES (Montgomery)—Will the gentleman withdraw it, and we will get that amendment out of the way in fifteen seconds, by consent of the mover—

MR. deGRAFFENREID—No, we cannot.

MR. JONES (Montgomery)—I understood that we could.

THE PRESIDENT—In the opinion of the Chair the propositions to save time generally result in consuming time, and we had probably better proceed regularly, and dispose of motions in their order.

In reference to the point of order made by the gentleman from Mobile, the Chair will say that it is the same point of order made last week. The point made by the gentleman from Mobile is that an amendment to an amendment must be confined strictly

to the matter contained in the amendment. In ruling on that point last week, the Chair was in doubt, but the chair will adhere to the same ruling now that was made then and will overrule the point of order. Is the Convention ready for the question on the substitute offered by the gentleman from Pike?

MR. deGRAFFENREID—I want to be heard on the question.

I think that the gentleman intends, so far as possible, that the law shall remain in the Constitution about to be adopted as it now exists in the Constitution, with the single exception that the Governor shall some time after the adjournment of the General Assembly within which to approve bills.

Some objection is made as to the length of time proposed by the gentleman, within which bills can be approved by the Governor after the adjournment of the Legislature. In other words, Mr. President, so far as I have been able to ascertain, the only objection that has been made to Section 13, as reported by the committee, is the power that is conferred upon the Governor to recommend amendments to bills, which are presented to him for signature, upon the idea that temptation would be presented to the Governor to veto bills and return them for amendment, when the bill, but for the fact that the Governor could recommend a change, would receive his approval.

Now the amendment that is proposed by me, and printed in the proceedings of yesterday, simply eliminates from this report of the committee that one objectionable feature and that only, leaving the law just as it stands with the following addition, and if the members will read the amendment proposed by me, they will find that the amendment is simply Section 13 of the present Constitution of the State of Alabama, and added to Section 13 would be the following, in addition to the section as it now stands, and this would be the change which the amendment by me would make in the law: "if any bill shall not be returned by the Governor, Sundays excepted, within six days after it shall have been presented, the same shall become a law in like manner as though he had signed it, unless the General Assembly by their adjournment or recess prevent its return, in which case it shall not be a law; but bills presented to the Governor within five days before the adjournment of the General Assembly may be approved by the Governor at any time within ten days after the final adjournment, if approved and deposited with the Secretary of State within that time. Every vote, order or resolution to which concurrence of both Houses may be necessary, except questions of adjournment, and bringing on of elections by the two Houses, and amending this Constitution, shall be presented to the Governor; and before the same shall take effect be approved by him, or being disapproved, shall be passed by both Houses, according to the rules and limitations prescribed in the case of a bill."

Now, as I said, the only change that is made if the amendment which was offered by me on yesterday is adopted, will be the power in the Governor to approve a bill after the adjournment of the House. That matter was discussed, and I do not deem it necessary to discuss it further. It would seem that the Governor should have power to give life to that which has been expressed to be the will of the people, after the adjournment of the General Assembly, if he has not had time to sign it before; but it would also seem that it would not be wise to lodge with the Governor the power, whenever a bill was presented to him, to propose an amendment, because of the temptation that would exist to offer amendments to almost every bill that would be brought to him for approval, especially in the light of the fact that the State of Alabama, with only about eight other States in the Union, has the provision in its Constitution that a majority of the members elected to the General Assembly can pass bills over the Governor's veto, instead of the ordinary two-thirds vote required in the Constitutions of most of the States, and of the United States.

MR. OATES—I want to ask the gentleman from Hale a question.

MR. deGRAFFENREID—Yes sir.

MR. OATES—I think you omitted to state one thing. It is in the present Constitution that the Governor may sign bills within five days, instead of six. That is a difference of only one day.

MR. deGRAFFENREID—Yes sir.

MR. PILLANS—As your amendment reads, leaving the first eighteen lines in do you not leave the entire text of the report insofar as it provides for vetoing a bill with amendments?

MR. deGRAFFENREID—It was not intended to.

MR. PILLANS—I think it was not intended to, but I think the amendment does do that.

MR. deGRAFFENREID—I asked leave this morning to amend, and the President put the question to the House as to whether or not the amendment that I offered should be adopted. I thought it had been agreed to. Your point is well taken, unless the amendment that I offered this morning is adopted by the House, and I now ask leave of the House to so change this amendment offered by me on yesterday, as that it shall read—

MR. SAMFORD—Mr. President I would object—

MR. PRESIDENT—The Chair would rule that further amendments cannot be entertained until the substitute offered by the gentleman from Pike is disposed of. That is in the nature of an amendment to the amendment offered by the gentleman from Hale.

MR. FITTS—However the matter is regarded, as it now stands, and in whatever technical shape it stands, and whether the gentleman be allowed to go back and strike out other words or not, the whole question, as it is before this Convention now, is substantially the same question which was raised by the gentleman from Jefferson on Saturday afternoon, and upon which the House has voted and sustained the committee. Now, the sense of the Convention having been once ascertained on this matter, and the committee having been sustained, it does seem to us that we might be allowed to pass upon this section as reported by the committee, and go on to other sections of this report. The committee is not loathe to have this report torn to pieces, or to have its report amended, and the Convention has enjoyed that privilege to the full; but the committee does feel that when substantially the same point has been raised and passed upon, that we in turn might enjoy the pleasure of having the section approved, and proceed to test the merit of another. Now the whole point raised is exactly the same as the point raised by the gentleman from Jefferson. He raised the objection that is now being urged that the Governor ought not to be allowed to suggest amendments to legislation that has been passed, and sent to the executive office for approval.

Now, Mr. President, something has been said about temptations, something has been said about danger. There is no danger in this matter; there is no danger that will beset the Governor; and there is no breaking down, or striking down of ancient landmarks as has been said. The Governor has the right to veto the measure now. The only difference is if he vetoes it, he has to send it back to the House in which it originated, with his veto, and the question then becomes the bare, naked question, of whether or not the legislation shall pass notwithstanding the veto of the Governor.

Now, when he has the power to veto, so as to require a full majority of both Houses to overcome the veto, where is there any temptation? Where is there any striding over the difference between the co-ordinate departments of the government, when we say in the Constitution, that instead of the right of vetoing the legislation that is passed he may simply point out wherein there has been some error, or some technical mishap to the bill, and send it back with the suggestion that with that simple amendment it will meet with his approval.

At least, it is simply a difference of practice. If this is put in the Constitution, he can do that with the simple machinery that is provided. He can do it now as has been suggested, by sending for members of the legislature to come down to go through tedious machinery of recalling the legislation by a resolution which consumes time, and reconsidering it, in order to meet suggestions which he makes in a semi-official manner. What harm can be

done? What temptation besieges him? The word temptation has been used; to strike down ancient land-marks, has been used. Is there any objection to this machinery, instead of the other? Now the Committee feels that it gave very serious consideration to this matter. The Committee debated it very thoroughly and conscientiously and it seems to them that it provides the best and simplest means for him to make known in a public manner, and not in a quasi-private manner, any technical objection which occurs to him in connection with bills that have passed, and it seems to the Committee that it does not make any dangerous stride to do away with any of the distinctions in the departments of the government, and it further seems to the Committee, gentleman of the Convention, that this is identically the same question, garbed in another way, and dressed in another fashion, as that suggested by the gentleman from Jefferson on Saturday afternoon, and this morning passed upon by the Convention favorably to the report of the Committee. That being the status of the matter, Mr. President, I move that the amendment be laid upon the table, and upon that I call the previous question.

MR. COLEMAN of Greene—Mr. President.

MR. FITTS—I withdraw my motion for Judge Coleman.

MR. COLEMAN (Greene)—Mr. President it seems to me that the vote in favor of the motion of the Chairman of the Committee that this section be not re-committed, was not an endorsement of the objectionable features which occur to some of us in this section, but was an indication on the part of the delegates of the Convention that they themselves would proceed at once to amend the section as they desired, instead of being subjected to the delay that would ensue from a recommittal. The delegate from Hale offered an amendment which did not meet the ends desired, in the hasty preparation of the amendment, and that was voted down. The gentleman from Pike has offered an amendment which he calls a substitute, which covers the ground intended by the delegate from Hale and which, in my opinion, the delegates of the Convention are prepared to vote upon.

MR. WILSON (Washington)—I move the previous question on the substitute.

The main question was ordered, and a division being called for, the substitute offered by Mr. Murphree of Pike, was lost by a vote of sixty-six ayes to twenty-seven noes.

MR. SAMFORD—I move to lay the amendment of the gentleman from Hale on the table.

The motion to table was put, and a division being called for resulted in a vote of sixty-eight ayes and thirty-nine noes, so the amendment was laid on the table.

MR. FITTS—I now move the adoption of section thirteen as reported by the Committee, and on that I move the previous question.

MR. O'NEAL—I rise to a point of order. There is still an amendment pending before the House.

THE PRESIDENT—The chair will entertain the point of order as soon as the motion of the gentleman from Tuscaloosa is stated. The gentleman from Tuscaloosa now moves the adoption of the section as reported by the Committee, and upon that moves the previous question. The gentleman from Lauderdale rises to a point of order. The gentleman will state the point of order.

MR. O'NEAL (Lauderdale)—The point of order is this. The gentleman from Hale introduced an amendment, which has not been acted on by the Convention. That amendment was to the effect—

THE PRESIDENT—The chair will state for the benefit of the gentleman that the amendment was laid upon the table.

MR. O'NEAL (Lauderdale)—No, it has not been acted on.

MR. deGRAFFENREID—There is another one.

MR. O'NEAL (Lauderdale)—I wish to call the attention of the Convention and the Committee to the fact there is nothing in this section thirteen which authorizes the Houses to pass it over his veto. The only provision in this section is a veto where the Governor proposes an amendment, and the amendment offered by the gentleman from Hale was to remove that defect. As the section now stands, there is absolutely no provision for action on the part of the House after the Governor vetoes a bill.

MR. LOMAX—Will the gentleman from Lauderdale allow me to call his attention to the language of the first part of the section. I think it remedies the defect which he thinks exists.

MR. O'NEAL—Certainly.

MR. LOMAX—The language of the first five lines is as follows:

Sec. 13—Every bill which shall have passed both Houses of the General Assembly shall be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that House in which it shall have originated, who shall enter the objections at large upon the Journal and proceed to reconsider it.

MR. O'NEAL—That is in the language of the Code but here is what follows: "If after such reconsideration a majority of the whole number elected to that House shall vote for the passage of the bill it shall be sent with the objections to the other House

and if approved by a majority of the whole number elected to that House, it shall become a law." That is entirely omitted from this section, and the next paragraph proceeds in reference to the proposed amendments of the Governor so that the committee has entirely failed to provide any means by which the House can act on a veto where the Governor absolutely vetoes a bill.

MR. JONES (Montgomery)—I do not wish to take up much time but I feel that I ought to say a word on that.

THE PRESIDENT—The gentleman from Tuscaloosa moved the adoption of the section as reported by the committee and upon that demanded the previous question and the question before the Convention is shall the main question be put, and that question is not debatable.

MR. JONES (Montgomery)—I thought there was an amendment which the Chair held was being discussed.

THE PRESIDENT—If there is a pending amendment, the Chair is not advised of it.

MR. deGRAFFENREID--There was one introduced Saturday and it has never been acted on.

THE PRESIDENT—The Chair fails to recollect that the gentleman has introduced three amendments, the recollection of the Chair is that he introduced two and both of these amendments have been laid on the table by the Convention.

MR. deGRAFFENREID—On Saturday I introduced a resolution which was read and which has never been acted upon by the House and the records will disclose it. The amendment was introduced to meet an objection which has been pointed out by the gentleman from Lauderdale and it has been among the papers of the Clerk and has not been touched upon by the House.

THE PRESIDENT—The Secretary will read the amendment.

The amendment was read as follows:

Amend Section 13 by adding after the words to reconsider it in the fourth line, the following:

"If the Governor's message proposes no amendment which would remove his objection to the bill, the House in which the bill originated may proceed to reconsider and if a majority of the whole number elected to that House vote for the passage of the bill, the bill shall be sent to the other House, which shall in like manner, reconsider, and if a majority of the whole number elected to that House vote for the passage of the bill the same shall become a law notwithstanding the Governor's veto."

THE PRESIDENT—The Chair understands that the gentleman from Tuscaloosa moved for the previous question upon the section and amendments.

MR. JONES—And on that as Chairman of the committee have the right to conclude.

THE PRESIDENT—After the previous question is ordered.

MR. JENKINS—I trust that the gentleman from Tuscaloosa will withdraw that. I want to offer a substitute.

THE PRESIDENT—The gentleman does not withdraw the motion and the question is shall the main question be now put.

MR. JENKINS—I rise to a point of order, that is this body there is nothing in our rules calling for the previous question and it is out of order.

THE PRESIDENT—The point of order is overruled.

MR. REESE—Is the main question upon the amendment offered by the gentleman from Hale?

THE PRESIDENT—The main question will be upon that amendment.

MR. REESE—Then will not the gentleman from Hale have the right to conclude the debate on that if the main question is ordered.

THE PRESIDENT—On that amendment the gentleman from Hale will have the right to conclude.

A vote being taken the main question was ordered.

MR. deGRAFFENREID—The reason for the introduction of that amendment was because there is nothing in Section 13 which provides for the passage of a bill over the Governor's veto which is returned to the House by the Governor without any proposed amendments. It is stated by the Chairman of the Committee on Executive Department that Section 13 does contain such a provision, but it seems to me, as we are adopting a Constitution for a government of the people, that it should be so plain that no person can question the construction intended to be placed upon it. It has only been a moment ago when a distinguished lawyer who was at one time United States District Attorney, stated to this House in his position as delegate here, that there is no provision in this Section 13 which provides for the passage of a bill over the Governor's veto where the bill is returned to the House without a proposition from the Governor that it should be amended.

MR. JONES (Montgomery)—Will my friend from Hale allow me to give him briefly what is in this section?

MR. deGRAFFENREID—Yes, sir.

MR. JONES (Montgomery)—The section provides when he sends a bill back if that House acts on it it is send back, but if either of the Houses refuse to act on the amendments then the House in which the refusal takes place goes ahead with the bill, as in the case of veto, and it goes through both Houses and the section says in that event it shall become a law. I am afraid my friends have not examined the Section as closely as they may wish it to appear.

MR. deGRAFFENREID—Here is one Section which is omitted from this Section of the report of the Committee. I ask that the House follow me carefully. This is what is in the old Constitution:

Every bill which shall have passed both houses of the General Assembly shall be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that House in which it shall have originated.

Now that is in the old Constitution.

Who shall enter the objections at large upon the Journal and proceed to reconsider it.

Now upon this point Section 13 now under consideration is the same as Section 13 in the old Constitution. There Section 13 in this report departs from the old Constitution. The old Constitution says after that: "If after such reconsideration a majority of the whole number elected to that House shall vote for the passage of such bill, it shall be sent to the other House by which it shall likewise be reconsidered. If approved by a majority of the whole number elected to that House it shall become a law, but in such cases the votes of both Houses shall be determined by yeas and nays." That is left out of Section 13 in this report which it is proposed we shall now adopt.

MR. JONES (Montgomery)—It is put in another place.

MR. deGRAFFENREID—That is what the gentleman undertakes to say by construction, but we are making a Constitution, and trying to be plain so that everybody may know what it means and so that courts will not be called on to construe doubtful questions. If you will read Section 13, after the point where I have stopped, you will see that it begins to discuss an entirely new question, namely, the consideration of bills that are returned to the General Assembly by the Governor with proposed amendments.

MR. JONES (Montgomery)—In order to save time in deference to my friend, if the House will allow it, although we do not think it necessary, we will accept his amendment.

THE PRESIDENT—The Chairman of the Committee on Executive Department indicates that the Committee is willing to accept the amendment of the delegate from Hale. The question is now on that amendment.

A vote being taken, the amendment was adopted.

THE PRESIDENT—The question is on the adoption of the Section as amended.

MR. FITTS—And on that I move the previous question.

MR. O'NEAL—I desire to offer an amendment. I don't think it is fair that we should be cut off.

THE PRESIDENT—The Chair recognized one of the gentlemen in charge of the bill—the gentleman from Tuscaloosa—and his motion was to adopt the section as amended, and upon that the previous question was called.

A vote being taken, the main question was ordered.

MR. MAC A. SMITH—I offer an amendment.

THE PRESIDENT—The amendment is not in order. The main question was ordered.

MR. SMITH—Then I move a reconsideration of the vote by which the main question was ordered so that I can offer this amendment.

THE PRESIDENT—Without a suspension of the rules the further consideration of that motion would go over until tomorrow.

MR. SMITH—Then I move that the rules be suspended in order that I may offer that amendment.

MR. JONES—And I move to lay the motion to reconsider on the table.

A vote being taken the motion to lay on the table was carried.

MR. O'NEAL—I move to recommit the entire Section to the Committee with instructions to amend it by striking out that portion of the Section which refers to the Governor returning bills wih proposed amendments.

THE PRESIDENT—The previous question has precedence of the motion to recommit and the previous question has been ordered and the question is on the adoption of the Section as amended.

MR. WHITESIDES—And on that I call for an aye and no vote.

The call for the aye and no vote not being sustained by the rising of the requisite number of delegates, on a division the Section as amended was adopted by 73 ayes to 41 noes.

MR. JONES (Montgomery)—The next Section is Section 14. I desire to state in behalf of the Committee that the only change in that relates to a question of practice. The present Constitution says the Governor can veto a specific item of an appropriation bill and the question then arose as to whether it was his duty to send the bill back with his message and as he has already approved the bill, the opinion seemed to be that it had no business back in the House and this provides that in his message he shall set out specifically the item to which he objects and file the bill with the Secretary of State instead of returning it to the House.

MR. BROOKS—I offer an amendment.

THE PRESIDENT—The Secretary will read Section 14.

Section 14 was read as follows:

Sec. 14. The Governor shall have power to approve or disapprove any items of any bill making appropriations embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the Executive veto; and he shall in writing, state specifically the item or items he disapproves, setting the same out in haec verba in his message; but in such case, the enrolled bill shall not be returned with the Governor's objection.

The amendment of the delegate from Mobile was read as follows: Amend Section 14 of an ordinance to create and define the Executive Department by striking out the same and inserting the following : Section 14. The Governor shall have power to approve or disapprove any item of any bill embracing distinct items of appropriations and the portion of the bill approved shall be the law. He shall in his message specifically set out in full as the same appears in said bill the item disapproved, which shall be void unless repassed according to rules prescribed for the passage of other bills over the Executive veto, and the enrolled bill shall not be returned with the Governor's objections.

MR. BROOKS—I do not offer that amendment in any antagonism to the section as reported by the committee. On the contrary, I favor the provision of that section. I do not think that I can be fairly changed—I hope I shall not be considered as being actuated by a spirit of hypehcriticism, when I say that that section can be condensed very materially to its advantage. I think every provision in the Constitution ought to be brief and as succinctly expressed as is consistent with perspicuity. Now, I have endeavored to condense the provisions of that section, and

I think I have succeeded in doing so, retaining the full substance reported by the committee and obviating what seems objectionable to some members here the Latin words "in haec verba," which, although appropriate and commonly used in court proceedings, I thought ought to be omitted for obvious reasons in the Constitution which ought to be expressed in the common mother tongue, in the vernacular with which we are all familiar. Therefore, I propose that the amendment which I have just had the honor to introduce, be substituted for the section as reported by the committee.

MR. JONES (Montgomery)—I would state in behalf of the committee that the draft of this section was taken from the old Constitution, with a few words describing the practice. I have discovered great tenderness about Latin words and in behalf of the committee, we will accept "in so many words" in place of "in haec verba," but our friend seems to forget that there is Latin used in the Constitution, and that the former Constitution makers seemed to think that the people had some knowledge of Latin, for in some of the sections they speak of "habeas corpus" and "quo warranto" and "mandamus."

MR. ROBINSON—I desire to ask the gentleman a question: Suppose the item that is returned to the House is not sustained, what official record would you have of that in the office of the Secretary of State?

MR. JONES (Montgomery)—No other than what you would have in any other case of veto. It would appear on the journals and the Secretary would know that item was passed over the Governor's veto.

MR. ROBINSON—You would have the enrolled bill with that item disapproved of by the Governor in the Secretary of State's office and you have the action on the veto in the journal?

MR. JONES—There is some slight incongruity either way, but it seemed highly improper to the committee to have a bill before the House that was already a law and with which the House had nothing to do. It should be regulated one way or the other, but the committee has no set desire about that matter.

MR. LONG (Walker)—You state there are a few changes made. I want to know what they are and I want to know whether "in haec verba" is in the old Constitution?

MR. JONES (Montgomery)—Does the gentleman understand what "in haec verba" means?

MR. LONG (Walker)—A great many don't.

MR. JONES—I didn't ask about "a great many people." I asked if the gentleman understood their meaning.

MR. LONG (Butler)—Will the gentleman of the committee accept the amendment to strike out "in haec verba" and insert "in full?"

MR. JONES (Montgomery)—Yes! send up the amendment.

THE PRESIDENT—The pending question is on the amendment of the delegate from Mobile, and unless the amendment of the delegate from Butler appears to amend that amendment, it will not be in order at this time.

MR. LONG (Butler)—I understand the committee has accepted my amendment.

THE PRESIDENT—The amendment will have to come before the House, unless it is an amendment to the amendment of the delegate from Mobile, which was offered as a substitute, would not be in order.

MR. LONG (Butler)—Then I move it as a substitute from the amendment of the delegate from Mobile.

MR. BROOKS—I don't well understand how that can be I understood the gentleman from Butler to offer to amend the Latin words employed by the committee. The whole frame work of the section by my amendment, and he cannot move to amend my amendment by something entirely foreign to it. I don't see how his amendment applies to or touches my amendment. I don't see any words in my amendment to which his amendment could apply.

THE PRESIDENT—The question is on the amendment of the delegate from Butler.

MR. O'NEAL—I move to lay that on the table.

MR. LONG—I withdraw my amendment temporarily.

THE PRESIDENT—The proposition is before the House and the gentleman cannot withdraw it except by unanimous consent. Is consent given? The chair hears no objection, and the amendment is withdrawn.

MR. ESPY—I move to lay the amendment of the delegate from Mobile on the table.

A vote being taken, the amendment of the delegate from Mobile was tabled.

MR. LONG (Butler)—I now offer my amendment, which the committee accepts.

The amendment was again read.

MR. FITTS—That is satisfactory to the committee.

MR. O'NEAL—I move to lay the amendment on the table.

A vote being taken, the motion to table was lost, a further vote being taken, the amendment was adopted.

MR. FITTS—I now move the adoption of Section 14 as reported by the committee, as amended, and upon that I call for the previous question.

A vote being taken, the previous question was ordered, and a further vote being taken, the section, as amended, was adopted.

Section 15 was read as follows:

Sec. 15. In case of the Governor's removal from office, death, or resignation, the Lieutenant Governor shall become Governor. If both the Governor and Lieutenant Governor are removed from office, die, or resign, prior to the next general election, thereafter, for members of the General Assembly, the Governor and Lieutenant Governor shall be elected at such election for the unexpired term. In case of the impeachment of the Governor, his absence from the State, unsoundness of mind, or other disability, the power and authority of the office shall devolve, in the order herein named, upon the Lieutenant Governor, President pro tem of the Senate, Speaker of the House of Representatives, Attorney General, State Auditor, Secretary of State and State Treasurer; if any of these officers be under any of the disabilities herein specified, the office of Governor shall be administered in the order named by these officers free from such disability, until the Governor is acquitted, returns to the State, or is restored to his mind, or relieved from other disability. If the Governor shall be absent from the State over twenty days, the Secretary of State shall notify the Lieutenant Governor, who shall enter upon the duties of Governor, if both the Governor and Lieutenant Governor shall be absent from the State over twenty days, the Secretary of State shall notify the President pro tem of the Senate, who shall enter upon the duties of the Governor, and so on, in case of such absence, he shall notify each of the other officers named in their order, who shall discharge the duties of Governor, until the Governor or other officers entitled to administer the office in succession to the Governor, returns. If the Governor-elect fails or refuses from any cause to qualify, the Lieutenant Governor-elect shall qualify, and exercise the duties of the Governor's office until the Governor-elect qualifies; and in event both the Governor-elect and Leiutenant Governor-elect, from any cause, fail to qualify, the President pro tem of the Senate, the Speaker of the House of Representatives, the Attorney General, State Auditor, Secretary of State, and State Treasurer shall in like manner, in this order named, administer the government until the Governor or Lieutenant Governor-elect qualifies.

In the reading it was disclosed that the word "Governor" was omitted after the word "Lieutenant" in one place and it was inserted by consent and appears in the copy as above printed.

MR. JONES—I have an amendment and when the clerk reads it, I wish to explain it to the House.

The amendment was read as follows: "Amend Section 15 in the third line by striking out the word "thereafter" and substituting in lieu thereof the words "after their election."

MR. JONES (Montgomery)—This is insert to make better grammar. In the dictation we used the word "hereafter" instead of after their election.

A vote being taken the amendment was carried.

MR. WILLIAMS (Barbour)—I have an amendment.

MR. JONES—I had not yielded the floor. I want to explain the section.

THE PRESIDENT—Has the gentleman any amendment to propose?

MR. JONES (Montgomery)—I want to explain simply.

THE PRESIDENT—Does the gentleman from Barbour withdraw his amendment?

MR. WILLIAMS (Barbour)—Temporarily.

MR. JONES (Montgomery)—I will state to the Convention that the Committee considered this with very great care. We did not attempt to shorten this section because we have had an example very lately of the results of too much brevity in dealing with things that may be obscure. So the Committee took up first, the removal, death or resignation of the Governor and said who should succeed him. Then they provide if both the Governor and Lieutenant Governor are removed from office, die or resign prior to the next general election after their election for members of the General Assembly the Governor and Lieutenant Governor shall be elected for the unexpired term. Then the Committee provided as in the old Constitution for the cases of disability, unsoundness of mind, and absence from the State and added the three other officers named in addition to the President of the Senate and Speaker of the House. Then they take up the question of absence and who shall administer the office in that event. They they provide in so many words for the contingency of the Governor-elect failing or refusing to qualify and for a failure or refusal of the Lieutenant Governor to qualify and we hope we have made the Article so plain that it will meet the approval of the Convention. Now I yield the floor to the delegate from Barbour who withdrew his amendment to allow me to make my explanation.

MR. WILLIAMS (Barbour)—I offer an amendment.

The amendment was read as follows:

"Amend Section 15 by inserting after the words 'unexpired term' in the fifth line, the following sentence: And in the event of a vacancy in the office caused by the removal from office, death or resignation of the Governor or Lieutenant Governor, pending such vacancy, and until their successors shall be elected and qualified, the office of Governor shall be held and administered by either the President pro tem of the Senate, Speaker of the House of Representatives, Attorney General, Auditor, Secretary of State and Treasurer, and in the order herein named.

MR. WILLIAMS (Barbour)—The purpose of that is to prevent an interregnum. I think if the gentleman will read their Section that they will see under their Section there is a possibility of an interregnum. "In case of the Governor's removal from office, death, or resignation, the Lieutenant-Governor shall become Governor." Now that is straight. "If both the Governor and the Lieutenant-Governor are removed from office, die, or resign, prior to the next general election, thereafter, for members of the General Assembly, the Governor and Lieutenant-Governor shall be elected at such general election for the unexpired term." If they are both out there is a vacancy. This Section simply looks to an election for their successors, but that may be twelve or eighteen months off. Now there are three situations in which the other officers of the State are called upon to take the Executive chair and neither one of those situations is the one that is named in the first part of this Section. In case of the impeachment of the Governor, his absence from the State, unsoundness of mind or other disabilities, the power and authority of the office shall devolve in the order named upon the different State officers. Now, that is not the situation. The first contingency is where both the Governor and Lieutenant-Governor are out and there is a vacancy and the provision is that sometime when the election comes on a successor shall be elected. Now further, in line seventeen, there is another contingency. If the Governor shall be absent from the State over twenty days the Secretary of State shall notify the Lieutenant-Governor, who shall enter upon the duties of the Governor, if both the Governor and Lieutenant-Governor shall be absent from the State over twenty days, the Secretary of State shall notify the President pro tem of the Senate, who shall enter upon the duties of the Governor. That is not the situation presented in the first part of his ordinance, because there is no vacancy, they are simply absent from the State for a given length of time. The last contingency is if the Governor fails or refuses from any cause to qualify the Lieutenant-Governor shall qualify and exercise the duties of the office until the Governor elected qualifies. And in

the event both the Governor-elect and the Lieutenant-Governor fail to qualify the President pro tem of the Senate and Speaker of the House, etc.

Now, not one of these adjustments, if I understand the reading of them, provide for the incumbency in the event of vacancy. In the first provision if the Governor and Lieutenant-Governor both shall die, resign or be removed from office, it provides for an election, and all these other arrangements for the incumbency and administration of the office are for special conditions, neither one of which is the contingency to which I refer and it struck me there is a vacancy unavoidable, and the amendment I offer provides for that situation, wiping out any chance of a vacancy. It is an amendment that does not harm even if the gentlemen think it is not necessary, but reading this ordinance in plain old-fashion English, I cannot see it otherwise than there may be a vacancy with no one provided to fill it.

MR. BOONE—I move that the amendment be adopted.

A vote being taken the amendment was adopted.

MR. PETTUS—I offer an amendment.

The amendment was read as follows:

"Amend Section 15 of Article V. by striking out the words 'President pro tem of the Senate' in lines 22 and 23 of said Section."

MR. PETTUS—My reason for offering that amendment is that at a time when the Senate is not in session if a question as to the succession to the office of Governor arose, there might be grave doubt as to who is the President pro tem of the Senate, or in case there is no President pro tem of the Senate and the succession should go to the Speaker of the House, there might be some question as to whether or not a President pro tem of the Senate subsequently elected, after the Speaker of the House had assumed the duties of the office—as to whether the President pro tem had a superior right, although elected subsequently to the Speaker of the House taking charge. To remove that doubt I move to strike out "President of the Senate" wherever it occurs in this Section and in the amendment proposed by the gentleman from Barbour. It seems to me that having provided for a Lieutenant-Governor who presides under the Constitution over the deliberations of the Senate, if he is incompetent or refuses to qualify for his office that the succession should go directly to the Speaker of the House, and not to the President pro tem of the Senate, and I therefore move the adoption of the amendment.

MR. JONES—I call my friend's attention to the fact that provision is made in the Constitution for the election of a President pro tem of the Senate when the Lieutenant-Governor is absent

from the Senate, therefore, if the Lieutenant-Governor were to die or, as is the common practice in Washington, gets out of the way for the purpose of allowing a President pro tem to be elected. the President pro tem would be elected and the records show that he was President pro tem of the Senate, and it seems to me there is no necessity of the amendment of the gentleman from Limestone.

MR. PETTUS—In the event of the Governor succeeding to his office before the meeting of the Legislature, and then a vacancy occurring and the Lieutenant-Governor refuses to qualify, the succession would go directly to the Speaker of the last House.

MR. JONES—I think it would go to the President pro tem of the Senate, if there was such an officer.

MR. PETTUS—But suppose there is no such officer, it would go to the Speaker of the House, and suppose after he takes charge a President of the Senate is elected, would the Speaker of the House hold on or would the President pro tem of the Senate take charge?

MR. JONES—I could not say. I have not examined as to that.

MR. PETTUS—Then there is a doubt as to the construction, and we ought to make it plain.

MR. JONES—I would not give an off-hand opinion on a constitutional question like that, but it seems the last President pro tem would be the one to take charge.

MR. PETTUS—I would ask if the President pro tem is not a casual officer?

MR. JONES (Montgomery)—Casual in one sense, because he is created when the Lieutenant-Governor is away, but he is no more casual than any other officer. I move to lay that amendment on the table.

On a division the motion was carried by 75 yeas and 22 nays, so the amendment was tabled.

MR. FITTS—I now move the adoption of Section 15 as amended and upon that I call the previous question.

MR. ROBINSON—I will ask the gentleman to withdraw that a moment. I would like in line six where the words are "his absence from the State for over twenty days," I would like to make that twelve.

MR. FITTS—I do not yield.

THE PRESIDENT—The gentleman from Tuscaloosa moves for the adoption of the section as amended and calls for the previous question.

MR. REESE—I want to be informed. In Section 5 of this article it provides that the Governor shall be ineligible to office and is under a pledge not to go to the United States Senate. This Section 15 provides for the election of a Governor for an unexpired term. Is he to be excluded the same way?

MR. FITTS—He is.

MR. REESE—And in the event the Attorney General is called on to be Governor, who is to serve as Attorney General?

MR. FITTS—The probability of an Attorney General ever succeeding as Governor is so remote that we did not think it was necessary to make Constitutional provision, but should it over occur, the Attorney General would vacate his office by becoming Governor and he would appoint his own successor to the office of Attorney General.

A vote being taken the previous question was ordered and a further vote being taken the section as amended was adopted.

THE PRESIDENT—Read the next section.

Section 16 was read as follows:

Sec. 16. If the Governor or other officer administering the office shall become of unsound mind, it shall be the duty of the Supreme Court of Alabama, upon request in writing of any two of the officers named in Section 15, not next in succession to the Governor, to ascertain the mental condition of the Governor, or other officer exercising the office—and if he is of unsound mind, to so certify upon its minutes; a copy of which, duly certified, shall be filed in the office of the Secretary of State; and in that event, it shall be the duty of the officer next in succession, to perform the duties of the Governor, until the Governor or other officer exercising the office is restored to his mind; when the incumbent denies that the Governor or other person entitled to administer the office, has been restored to his mind, the Supreme Court, at the instance of any officer named in Section 15, shall ascertain the truth concerning the same, and, if the officer has been restored to his mind, shall so certify on its minutes and file a duly certified copy thereof with the Secretary of State, and in that event his office shall be restored to him."

MR. JONES (Montgomery)—The committee has an amendment.

The amendment was read as follows: Amend Section 16, line 2, by adding after the Word Alabama the words "under such regulations as may be prescribed."

MR. JONES—I will state the object of the committee in offering that is to give the Supreme Court the machinery to make such regulations as they see fit in the event a case arises. After conversing with members of the Judiciary Committee and other distinguished members of this body it was thought wisest to allow the Supreme Court itself to make such rules and regulations as it deemed proper, and, therefore, in deference to their opinions the committee offers this amendment.

MR. ROBINSON—I desire to ask the gentleman a question. This section says in line one "If the Governor shall become of unsound mind it shall be the duty of the Supreme Court to have an inquisition." Why should there be an inquisition if he is of unsound mind?

MR. JONES (Montgomery)—Suppose it is disputed?

MR. ROBINSON—But you say if he "is."

MR. JONES (Montgomery)—The language is "if the Governor shall become."

MR. ROBINSON—If he is of unsound mind, why necessary to inquire into it.

MR. JONES (Montgomery)—It is to prevent conflicts that might arise. Suppose I were Governor and the Lieutenant Governor said I was crazy and the Lieutenant Governor went into the office and commenced to act and I said he was crazy and I took possession. The matter of succession under such circumstances is so delicate a thing that it is proper to have some tribunal. As all Governors are mortal it is a contingency that may arise and we thought it was necessary to provide some tribunal to determine the fact.

MR. McDONALD—I have an amendment to the amendment proposed by the Committee.

The amendment was read as follows: "Amend the Committee's amendment to Section 16 of Article V by adding the following words: 'The request in writing hereinabove provided for shall be verified by affidavit of those making such request, and the Supreme Court shall prescribe rules of practice in such proceedings, which rules shall include a provision for the service of notice on the Governor of such proceeding and the method of taking testimony therein.'"

MR. MACDONALD—I offer that amendment because I think it unwise that it should be left to the Supreme Court to decide whether or no such a grave matter as the sanity of the Governor shall be tested in an ex parte proceeding. The Section offered by the Committee left it entirely discretionary with the Supreme Court to provide rules of practice or give any notice to

the Governor but merely provides that any two of the officers by request, whether written or verbal, can call upon that great body to act upon such a serious question as the sanity or insanity of the Chief Executive of the State.

MR. FITTS—The Committee is content with your suggestion and will accept your amendment.

MR. JONES—We were trying to avoid using so many words.

MR. PILLANS—I wished to make a suggestion to the Chairman of the Committee which I thought would reach the objection of the delegate from Chambers, but I could not get the floor and I offer it now as a substitute to the amendment offered.

THE PRESIDENT—The chair will suggest to the gentleman from Mobile that there is now pending an amendment to the Article as reported and an amendment to that amendment.

MR. PILLANS—One was an amendment of the Committee.

THE PRESIDENT—But under the rules under which we are proceeding, it will be necessary to submit that to the Convention and then your amendment will be in order as soon as one amendment is disposed of.

MR. PILLANS—I ask that it be read, because it covers the matters dealt with in those amendments and I think harmonizes the situation.

The amendment of the delegate from Mobile was read as follows:

"Resolved, That Section 16 of Article V be amended as follows: By adding after the word 'shall' in the first line of Section 16 and before the word 'become' in that line two words 'appear to have' so that said line shall read 'if the Governor or other officer administering the office shall appear to have become of unsound mind,' etc., and by adding at the end of the third line the words 'under such rules and methods of procedure as it may prescribe and adopt for hearing and determining such matters.

The hour of adjournment having arrived, Committee meetings were announced, and the Convention then adjourned.

TWENTY-FOURTH DAY

MONTGOMERY, ALA.,

Wednesday, June 19, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Murphy, as follows:

O Lord, Our God, who hast made and who rulest all, be among us, we beseech Thee, enlightening with Thy light and sustaining with the compassions of Thy power. Defend us from the perils of the ignorant, and from the pitfalls of the proud. Keep far from us the spirit of the oppressor, and the touch of the unholy, that the glory of our hearts may be found in the welfare of the people, and that the fruitage of our labors may be garnered in the lasting harvests of their security and dignity and peace. Uphold us with Thy truth!

Bring to every member of this House O Father, the blessings of Thy tender and constraining care. Where there is sickness or death or sorrow vouchsafe the sweet deliverance of Thy comfort and Thy strength. Within the homes of all who labor here, bring the swift defenses of Thy love, and keep us all for Thine own forever! We ask it in the name of Jesus Christ, our Lord. Amen.

Leave of absence was granted Mr. Opp of Covington for Monday last.

The report of the Committee on the Journal was read, stating that the Journal for the twenty-third day of the Convention had been examined and found to be correct.

Upon motion of Mr. Graham of Talladega the report was adopted.

THE PRESIDENT—The Secretary will call the roll of Delegates for the introduction of ordinances, resolutions, etc.

MR. GRAHAM (Talladega)—I desire to call attention to an error in the stenographic report. The resolution introduced by myself on yesterday morning in the second line, the numbers 550,000 occurred, and the stenographic report has it $510,000. I desire to have that correction made.

MR. ROBINSON (Chambers)—Yesterday I moved to insert the words "after twenty days." The stenographic report says "I will ask the gentleman to withdraw that a moment. I would like in line six, where the words are "his absence from the State for over 20 days." I would like to make that 12." I said

nothing of that kind. I asked the Executive Committee to insert 20 days where there was no number of days specified.

I also desire to correct the report where it says "you would have the enrolled bill with that item disapproved of by the Governor in the Secretary of State's office, and you would have the action on the veto in the Journal." I said would not have. There is nothing in here that I said.

THE PRESIDENT—The gentleman's seat is a little far back and it is a little difficult for the Chair to hear him, and possibly the stenographers did not hear him.

MR. ROBINSON—I do not desire to cast any reflection upon the stenographer at all. The delegates in this part of the House cannot hear nor be heard.

The call of the roll for the introduction of ordinances, etc., proceeded.

Resolution No. 167, by Mr. NeSmith:

Whereas, this Convention, at the conclusion of its labors, should issue an address to the people of Alabama, outlining briefly the changes made and showing the superiority of the new Constitution over the one under which we are now living;

And whereas, should a committee be speedily appointed for the purpose, such address would be better and more easily prepared.

Therefore, be it resolved that the President of this Convention be empowered to appoint a Committee of Twelve, of which he shall be the chairman, to draft such an address.

Referred to Committee on Rules.

Resolution No. 168, by Mr. Oates:

Resolved. That inasmuch as the printed acts of the last session of the General Assembly are so voluminous as to make them unwieldly and easily destructible that the Secretary of State be directed to have them bound as follows:

The General Laws in one volume, the General and Local Laws together in two volumes, and the State Auditor is hereby authorized to give his warrant on the Treasurer for the cost of the additional bindings, at the rate provided for in the contract for the public printing.

Referred to Committee on Schedule, Printing and Incidental Expenses.

MR. OATES—I offer that resolution at the instance of the Secretary of State. I only have his explanation, which I will not

undertake to give to the Convention. I stated to him after it was referred he could go before the Committee to which it was referred, and give them the explanation.

MR. O'NEAL (Lauderdale)—I yield my place to Mr. Williams of Marengo.

Resolution No. 169, by Mr. Williams:

Whereas, The Convention has incurred considerable expense in obtaining a stenographic report of the proceedings of the Convention, and whereas, the wisdom of the reports appears more apparent every day, and whereas, as a ready reference the reports are a failure as they now are, and whereas, an index would add greatly to the value of the reports.

Now, therefore, be it resolved by the Convention, that as soon as the Convention shall have adjourned sine die, that the Secretary of State be and he is hereby authorized to contract with some reliable party who shall make a complete index of said report, and shall place the same in each of the volumes of the reports heretofore ordered kept for the use of the State; and shall further cause to be printed in some paper in Alabama, the said index, so that those people of Alabama who are preserving the reports may easily obtain a copy of said index for their use and preservation.

Referred to Committee on Rules.

Ordinance No. 389, by Mr. O'Neill (Jefferson):

Be it ordained by the people of Alabama in convention assembled, that no agent of any person, firm or corporation, whose place of business located in this State, shall be charged license tax by any city, town or municipal corporation in the State of Alabama to which said agent may come from the city, town, or municipal corporation when said person, firm or corporation is engaged in business to solicit business in towns to which said agent comes, in case where it would be unlawful under the interstate commerce law, if said agent or drummer represented a person, firm or corporation doing business out of the State.

Referred to Committee on Municipal Corporations.

Ordinance No. 390, by Mr. Spears:

An ordinance authorizing and making it the duty of the Commissioner's Court of St. Clair County to erect a suitable court house and jail at some place in said county on the south side of Backbone Mountain whereat the courts are to be held for the trial of all causes and the transaction of all legal business originating in and pertaining to the people residing in Beats 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20 and 21 of said county.

1. Be it ordained by the people of Alabama in convention assembled that the Commissioner's Court of St. Clair County is hereby authorized and empowered and it is hereby made the duty of said court to erect or cause to be erected a suitable court house and jail at some place in said county on the south side of the Back Bone Mountain at which court house all the courts of said county shall be held for the trial of all causes and the transaction of all legal business originating in Beats 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20 and 21 of said county.

2. It shall be the duty of said commissioner's court at its first regular meeting after the ratification of this constitution to take all necessary steps and make all necessary orders for the levy and collection of a sufficient amount of money by way of taxation from the tax payers and taxable property in said county to pay for the erection of said court house and jail, but all of said tax shall not be levied and collected in one year. Said court house and jail shall be completed in every way and be ready for the holding of court and the transaction of all legal business on or before the spring term of the Circuit Court of said county 1903.

3. The General Assembly of Alabama at its next session after the ratification of this constitution shall enact all necessary laws regulating the holding of all the courts of said county at said new court house and that may be necessary to carry out this ordinance to its full intent.

4. It shall be the duty of the probate judge of said county to order an election to be held in Beats 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20 and 21 not later than sixty days after the ratification of this constitution at which election the qualified voters living in said beats shall select a place by a ballot for the erection of said court house and jail the place receiving the largest number of votes cast at said election shall be the place where at said court house and jail shall be erected.

Referred to Committee on State and County Boundaries.

MR. BROWNE—I ask unanimous consent to send up and have read a communication to the committees of the convention from the Educational Association.

The communication was read as follows:

Montgomery, June 19, 1901.

Hon.J. B. Graham, Chairman Committee on Education, Hon. Cecil Browne Chairman Committee on Taxation:

My Dear Sirs—At a regular meeting of the Alabama Educational Association Tuesday, June 18, the following resolution was adopted:

Resolved, That the hour of 4:30 p. m. Wednesday be the hour set apart for the discussion of "local taxation for school purposes" and that a committee be appointed to invite the Constitutional Convention Committees on Education and Taxation, to meet with this association at that hour.

The following committee, in accordance with above resolution, have the honor to invite your and your committees to be present at the above named hour, and we trust you will be with us and participate in the discussion.

Respectfully,

J. D. Humphrey,

J. W. Abercrombie,

C. C. Thach,

J. Savage,

J. B. Cunningham.

MR. BROWNE—I now ask that the communication lie upon the table, and that all the members of the Committee on Taxation who are able to do so, will attend.

MR. GRAHAM (Talladega)—I would like to amend that by stating that the place of speaking is at the Girl's High School on Lawrence Street, about four blocks from the postoffice.

MR. STEWART—I yield my call to Mr. Greer of Perry.

Resolution 170, by Mr. Greer (Perry):

Resolution of welcome to the Alabama Press Association.

Whereas the Press of Alabama is recognized as the most potent factor in disseminating information and in moulding public opinion throughout every county, city, town, hamlet, and rural district of the State of Alabama, and

Whereas, the Press of Alabama, as a majority, has ever been found on the side of the people, and of law and order, on all questions affecting the public weal, and in no time in its history has it failed to secure an endorsement of its fight for right, law and justice, and

Whereas, this Constitutional Convention owes in a large measure this assembling of the representatives of the people to the efforts of the Press of Alabama whose voice was almost an unit for the call of the convention, and

Whereas, a close scrutiny of the columns of the State Press will show that it is today promulgating every act of this convention, discussing, and dissecting the same, so that each and every

voter may be enabled to vote intelligently on the question of endorsement or refusing to endorse the action of this convention, and

Whereas, The Alabama Press Association will meet in annual session in the city of Montgomery on Thursday and Friday of this week.

Therefore, be it Resolved, by the people of Alabama in convention assembled, That the editors, their wives, daughters, sons and friends, composing this Association, be extended an invitation to attend upon the meetings of this convention during their stay in this city.

Be it further resolved, That this convention invite the criticism of the Press of Alabama with reference to the arduous task now confronting this body, in formulating a new organic law, believing as we do that these intelligent criticisms will redound not only to the ratification of our acts, but that the people will thereby be apprised of the efforts now being made by their representatives to fulfill their duties honestly, fearlessly and conscientiously.

Be it further resolved, That this convention extends best wishes to those members who shall take the happy outing to the Pacific Coast, and that their trip may prove one of pleasure and of profit, and that they may return to their homes feeling that they have been rewarded in garnering information that will aid them in their progressive strides towards placing their State at the head of the realm, in progress and education, as she now stands in natural resources, and acknowledged possibilities.

Referred to Committee on Schedule, Printing and Incidental Expenses.

MR. GREER (Perry)—I move that the rules be suspended and that the resolution be put upon its passage.

MR. deGRAFFENREID—I move as a substitute that it be referred to the Committee on prayer.

THE PRESIDENT—The ordinance will be referred to the Committee on Printing, Incidental Expenses, etc. (Laughter).

Ordinance No. 391 by Mr. Whitesides:

Be it ordained by the people of Alabama in convention assembled, That the legislature shall make no discrimination against any business trade, occupation or profession in requiring a privilege tax where the purpose of the privilege tax is to raise revenue only.

Referred to Committee on Legislative Department.

MR. WATTS—I move a suspension of the rules so as to proceed to the consideration of the report of the Committee on Executive Department.

THE PRESIDENT—The clerk states that he has only a few names on the roll.

Upon completing the roll call, Mr. Watts renewed his motion, and upon a vote the rules were suspended, and the convention proceeded to the consideration of the report of the Committee on Executive Department.

THE PRESIDENT—The convention had under consideration at adjournment yesterday, section sixteen of the report of the Committee on Executive Department, and the committee offered an amendment. Thereupon the gentleman from Mobile, Mr. Pillans, offered and had read a proposition for the information of the house, which he proposed to offer subsequently as an amendment.

MR. O'NEAL (Lauderdale)—Before taking up that amendment, I desire to call the attention of the Committee on Executive Department and the house to an ommission in a section which we have already adopted, and which I think they will readily agree to correct. In line six of section fifteen it is provided in case of the impeachment of the Governor, his absence from the State, etc., and it ought to be amended by adding for more than twenty days. Mr. Robinson undertook to call the attention of the convention to that omission, but somehow it seems to have been misunderstood. Now, under the section as it stands, one day's absence of the Governor would authorize the Lieutenant Governor to take charge of the office, and I am sure that was not the intention of the committee, and it was purely an oversight, and I am satisfied they will agree to the correction.

MR. JONES (Montgomery)—The Committee has not the slightest objection to the correction, so as to eliminate the possibility of doubt. They do not think that it is necessary, as it is covered in another place, but they ask that the house unanimously allow the correction to be made.

MR. ROBINSON—I will ask the Committee if I did not offer that identical matter on yesterday, and they refused to accept it?

MR. JONES (Montgomery)—Mr. President we could not hear what the gentleman wanted, but if we were wrong yesterday, we are right today, and we are willing to confess whenever we are in error.

MR. ROBINSON—I am glad to hear it. It is suggested however, that the report of the Committee ought to be considered by the convention.

THE PRESIDENT—The matter is not in order without a suspension of the rules.

MR. JONES (Montgomery)—I hope the convention will allow it.

MR. O'NEAL (Lauderdale)—I move a reconsideration.

MR. OATES—Would it not be in order by unanimous consent? There is no one objecting to it, and by unanimous consent it could be put in without any reconsideration.

THE PRESIDENT—It seems to the Chair after matter is passed, that it can only be attained by a motion to reconsider the action of the convention.

The motion to reconsider the vote by which the section was adopted was carried.

THE PRESIDENT—The question is on the amendment offered by the gentleman from Chambers,—

MR. ROBINSON—I have the amendment here.

THE PRESIDENT—Or the gentleman from Lauderdale?

MR. O'NEAL (Lauderdale)—The clerk has it.

The amendment was read as follows:

Amend Section 15, line six, by adding after the word State, in line six, "for more than twenty days."

Upon a vote the amendment was adopted, and upon a further vote Section 15 as amended was again adopted.

THE PRESIDENT—The question is on the amendment offered by the gentleman from Montgomery to the amendment proposed by the Committee to Section 16.

The amendment was read as follows: Committee's amendment—Amend Section sixteen, line two, by adding after the words Alabama, the words "under such regulations as it may prescribe."

Mr. McDonald's amendment to the amendment was read as follows: "To amend Section 16 of Article V, by adding the following words: "The request in writing hereinbefore provided for shall be verified by the affidavit of those making such request and the Supreme Court shall prescribe the rules of practice in such proceedings, which rules shall include a provision for the service of notice on the Governor of such proceedings, and the method of taking testimony."

Upon a vote being taken, the amendment to the amendment was adopted.

MR. JONES (Montgomery)—The gentleman from Mobile offered a suggestion on yesterday, and I understood perhaps he would write it out, and I think possibly the article would be better if his suggestion were incorporated in it.

MR. PILLANS—I wrote it out and sent it up, but the latter part is covered better by the amendment which has just been adopted, and I withdrew the latter part of my amendment.

MR. WATTS—I have an amendment.

THE PRESIDENT—The Chair will inquire of the gentleman from Mobile whether his proposition applies to the amendment to the amendment proposed by the Committee, or to the Section?

MR. PILLANS—It applies to the first part of the report. The part that was alluded to by the Chairman of the Committee.

THE PRESIDENT — The question now will be upon the adoption of the amendment proposed by the Committee to the Section as amended.

MR. PILLANS—I thought that had been covered by the adoption of the amendment of the gentleman from Montgomery.

THE PRESIDENT — The amendment to amendment has been adopted, but the amendment to the Section has not been acted on.

MR. O'NEAL (Lauderdale)—I desire to offer an amendment to the amendment of the gentleman from Montgomery.

THE PRESIDENT — The Secretary will read the amendment.

The amendment was read as follows: Amend by adding after the word Governor "or other officer administering the office."

MR. O'NEAL—The amendment is just this. He provides for notice to be served on the Governor, and I provide for notice to be served on the Governor or other officer administering the office.

MR. McDONALD—I accept that.

The amendment to the amendment upon a vote was adopted.

MR. PILLANS—Now, Mr. President, I offer the amendment to which I alluded yesterday.

THE PRESIDENT—The amendment offered by the Committee has not been acted upon. Is the Convention ready for the question on the amendment offered by the Committee?

Upon a vote being taken, the amendment offered by the Committee, and as amended by the amendment, was adopted.

MR. PILLANS—I now offer the amendment which was accepted by the chairman of the Committee, and which is merely to make the language consistent.

THE PRESIDENT—Please send up the amendment.

MR. PILLANS—The amendment is in the hands of the Clerk.

The amendment was read as follows: Resolved, That Section 16 of Article V be amended as follows, by adding after the word "shall" in the first line of Section 16, and before the word "become," in that line, the words "appear to have" so that the said line will read "if the Governor or other officer administering the office shall appear to have become of unsound mind."

Upon a vote being taken the amendment was adopted.

MR. WATTS—I now offer an amendment.

The amendment was read as follows: Amend Section 16, Executive Department, by inserting after "minutes" in line five, the following, "and when said investigation shall be ordered the officer next entitled to the office of Governor, according to the provisions of Section 15, shall assume the duties of said office, and discharge the same until said investigation shall have been concluded and decision rendered therein."

MR. WATTS—The object of that amendment is, because as I understand this Section there is no provision made for the occupancy of the office of Governor while the investigation is being carried on, and the object of that amendment is simply to provide for that hiatus.

MR. SAMFORD—I simply desire to say in reply to the gentleman from Montgomery that the proposition he makes here, or the amendment he proposes, might oust the Governor of Alabama from his seat for an indefinite period, without any adjudication whatever as to his sanity or insanity, and that it is a marvelous proposition, it occurs to me, to let two or three men get together and say that the Governor of Alabama is of unsound mind, or appears to be of unsound mind, and therefore, Mr. Lieutenant Governor, you walk into the office and take charge of it, until this matter can be adjudicated by the Supreme Court of Alabama, and for that reason I do not think that amendment is a good one.

MR. JONES—I dislike very much to dissent from any proposition made by my friend from Montgomery, Mr. Watts, who is always level-headed, except sometimes when he differs with this Committee, but the Committee carefully considered that and if the members remember, it provides that when two officers swear that the Governor appears to be of unsound mind, the Supreme Court shall investigate it. Now, if the amendment offered by my

friends from Montgomery is adopted, whenever two men swear that he appears to be of unsound mind, ipso facto he is put out of office, because the Supreme Court, when the matter is brought to its attention in that way is bound to investigate it, and the Commitee thought better to leave that matter alone, than to have any provision for suspending him pending the investigation. If a sad case of that sort arises, the Supreme Court would certainly end it in a day or two, and the State could not come to any great harm; certainly not as much as if it were put within the power of two officers to swear that a man is crazy, and ipso facto put him out until the Supreme Court decides he is sane. Therefore, I hope the amendment will not be adopted.

MR. OATS—I understand your objection is that the proposition is to put the Governor out before he is determined to be insane—you want to let him hold office until it is determined he is insane.

MR. JONES—That is exactly the proposition.

MR. deGRAFFENREID—I move to lay the amendment of the gentleman from Montgomery on the table.

The motion to table was carried.

MR. SAMFORD—I move that the Section as amended be adopted and on that I call for the previous question.

MR. PARKER (Elmore)—I rise to a question of inquiry.

THE PRESIDENT—The gentleman will state the question of inquiry.

MR. PARKER (Elmore)—Has not the Committee overlooked an amendment which was proposed by the Committee in its report of June 10th, and ought that not to be considered at this time?

THE PRESIDENT—The chair does not remember that the rules specifically prescribe as to amendments by the Committee, but that is the order in which they are usually considered, and it is the order in which we are considering them.

MR. PARKER (Elmore)—The point of inquiry is that it seems to me the supplemental report, or the amendment offered by the Committee on June 10th, has not been disposed of. We are about to adopt this Section as a whole, and I call attention to it.

THE PRESIDENT—The gentleman calls attention to the fact that the amendment proposed in the supplemental report of the Committee has not been disposed of.

MR. JONES (Montgomery)—The gentleman is correct. I will read it—

THE PRESIDENT—Unless the gentleman withdraws his call for the previous question.

MR. SAMFORD—I withdraw for that purpose.

MR. JONES (Montgomery)—If the Chair will permit me, I will read the amendment proposed, and which in the discussion was lost sight of.

"When the incumbent denies, that the Governor or other person entitled to administer the office, has been restored to his mind, the Supreme Court at the instance of any officer named in Section 15, shall ascertain the truth concerning the same, and, if the officer has been restored to his mind shall so certify on its minutes and file a duly certified copy thereof which the Secretary of State, and in that event his office shall be restored to him."

THE PRESIDENT—The question now is upon the amendment offered by the Committee, which has just been read in the hearing of the Convention.

The amendment was adopted.

MR. SAMFORD — I move the adoption of the Section, so amended, and on that I call for the previous question.

The motion was withdrawn by request.

MR. FERGUSON—I desire to ask the Chairman of the Committee if the plan here proposed supersedes an inquiry by a Court as to the sanity of the Governor.

MR. JONES (Montgomery)—I do not think it would interfere in any case where his mere personal concerns were involved —property and other matters of that sort—but it was the purpose of the Committee to have this delicate matter, so far as it affects the powers of the Governor, determined by the Supreme Court, and no other tribunal; and this is what they believe they have affected by the Section in question.

MR. FERGUSON—I desire to offer an amendment.

THE PRESIDENT—Does the gentleman from Pike yield?

MR. SAMFORD—No sir.

THE PRESIDENT—The question is on the motion—

MR. FERGUSON — He had yielded the floor to me, Mr. President.

MR. O'NEAL—I rise to a point of order. The gentleman from Pike yielded to the gentleman from Jefferson and had withdrawn his motion temporarily.

MR. SAMFORD—I have no objection in the world to the amendment if the gentleman wants to offer it.

THE PRESIDENT—The understanding of the Chair was that the gentleman from Pike yielded to the gentleman from Jefferson for the purpose of asking a question of the Chairman of the Committee.

MR. SAMFORD—I now yield to him for the purpose of offering the amendment if he desires to offer it.

Amendment by Mr. Ferguson:

Provided, however, that if any court of competent jurisdiction in this State, upon inquiry into the same shall ascertain according to the rules of law in such cases, that such Governor, or any of said officers in said line of succession and exercising said office, is of unsound mind, the mode of inquiry first above set out shall be deemed unnecessary; and the certificate of the Judge or Clerk of such Court adjudging such fact shall the filed in the office of the Secretary of State; and in that event it shall be the duty of the officer next in succession to perform the duties of Governor, until the Governor or such other officer is restored to his mind.

MR. SAMFORD—I move to lay the amendment of the gentleman from Jefferson on the table.

A division was called for by a vote of 63 ayes to 24 noes, the amendment was tabled.

MR. SAMFORD—I now renew my motion to adopt the Section as amended, and upon that I call for the previous question.

The previous question was ordered, and upon a further vote Section 16, as amended, was adopted.

Section 17 was read as follows:

Sec. 17.—The Lieutenant-Governor, the President pro tem of the Senate and the Speaker of the House of Representatives, shall receive during the time they respectively administer the government, like compensation as that fixed for the Governor; provided, if the General Assembly shall be in session during the time such officer may administer the office of Governor, they shall receive no compensation as officers or members of the General Assembly.

MR. JONES—I have sent up to the Clerk's desk a substitute for that Section, which I ask the Clerk to read.

THE PRESIDENT—Is it proposed by the Committee?

(Mr. Burnett endeavored to secure recognition).

MR. JONES—Yes, sir.

THE PRESIDENT—Does the gentleman yield?

MR. BURNETT—Yes; the substitute may be acceptable.

THE PRESIDENT—The Chair has recognized the gentleman from Conecuh, but he understands that he withdraws his amendment temporarily.

The substitute for Section 17 was read as follows:

Strike out Section 17, as now written, and insert in lieu thereof the following words:

Sec. 17.—The Lieutenant-Governor, President pro tem of the Senate, Speaker of the House, Attorney-General, State Auditor, Secretary of State, and State Treasurer, while administering the office of Governor, shall receive like compensation, and no other than that prescribed by law for the Governor.

MR. OATES—I call attention to the fact that the convention has stricken out the word State preceding Auditor and Treasurer heretofore.

MR. JONES—I remember that very distinctly, and some of us think we yielded too precipitately in deference to the suggestion of the gentleman from Montgomery (Mr. Oates). If it is necessary to bring that matter up again we will bring it up now.

THE PRESIDENT—The question is on the adoption of the substitute proposed by the committee.

Upon a vote being taken the substitute was adopted.

Section 18 was read as follows:

Sec. 18. No person shall at one and the same time, hold the office of Governor of this State, and any office, civil or military, either under this State or the United States, or any other State or government, except as otherwise provided in this constitution.

MR. JONES—This is the exact phraseology I believe of every constitution we have ever had, and unless some gentleman wishes to amend it, I move that it be adopted as read.

The motion was carried and the section adopted.

Section 19 was read as follows:

Sec. 19. The Governor shall be commander-in-chief of the militia and volunteer forces of this State, except when they shall be called into the service of the United States, and he may call

out the same to execute the laws, suppress insurrection, and repel invasion; but need not command in person unless directed to do so by resolution of the General Assembly, and when acting in the service of the United States, he shall appoint his staff and the General Assembly shall fix his rank.

MR. JONES—I move the adoption of the section.

MR. PARKER (Elmore)—I call the attention of the committee or its chairman to what seems to be a misprint in the phraseology of that section. It has the word "they" in the second line, and it ought to be the word "he".

MR. SAMFORD—That refers to forces.

The section was thereupon adopted.

Section 20 was read as follows:

Sec. 20. The Governor shall not appoint any member of the General Assembly, during the term for which he shall have been elected, to any office.

MR. SANDERS—I have an amendment.

THE PRESIDENT—Does the amendment proposed by the gentleman relate to the amendment proposed by the Committee?

MR. SANDERS—No sir.

A vote being taken upon the amendment proposed by the Committee, the same was adopted.

Amendment by Mr. Sanders (Limestone) was read as follows:

Amend Section 20 by adding after the word "office" in the second line, the following words: "created during said term."

Mr. President, it will be noted that the section as reported by the Committee disqualifies any member of the legislature during his term from appointment to any office within this State. The amendment as proposed by myself disqualifies member of the General Assembly only to such offices as shall be created during the time for which they are elected. I think, Mr. President, that the ends sought will be obtained by adopting the amendment. A member of the General Assembly attends upon the session fifty days and is generally through with the discharge of his duties as a member on the termination of that session. I can conceive, Mr. President, that it may be very desirable to appoint a member of the General Assembly to a constitutional office in Alabama which shall become vacant by death or other reason during his term.

The object sought, Mr. President, is, to remove members of the General Assembly from a possible undue influence exercised upon and over them by the Chief Executive. I don't see, Mr.

President, that that can apply where vacancies shall occur in constitutional offices of the State, such vacancies usually occurring by death, insanity, removal from the State for some cause. That cannot occur during the session of the Legislature, and therefore the influence which the Chief Executive may bring upon the members cannot apply to such case, and I therefore think the amendment is wise, and that it may be very desirable in this State to appoint at some time a member of the General Assembly to some office in the State which he has not helped as a member to create.

MR. THOMPSON (Bibb)—I desire to offer a substitute for the amendment of the delegate from Limestone. Sec. 20. No member of the General Assembly shall during the term for which he shall have been elected, be appointed to any office of profit in this State which shall have been created or the emoluments of which shall have been increased during the term for which such member shall have been elected.

THE PRESIDENT—The question is on the amendment of the gentleman from Bibb to the amendment of the gentleman from Limestone.

MR. PETTUS—I rise to question of inquiry. Did the gentleman from Bibb offer that as an amendment to the amendment of the gentleman from Limestone, or a substitute for the entire section and amendment.

MR. THOMPSON—As a substitute for the entire section and amendment.

MR. PETTUS—Then it is out of order because it is in the nature of an amendment—I withdraw the point of order.

MR. THOMPSON—It will be observed by a casual reading that the amendment is simply the provision of the old constitution though it is included here in the article on Executive Department where in the old constitution it is in the article on Legislative Department. It is copied word for word from the State Constitution of 1873 as it stood, and I submit that it is not necessary to prevent good men from becoming members of the General Assembly to disfranchise them, in effect to disqualify them for any office. The General Assembly is not one that is so very attractive any way, and when a man knows that on the acceptance of a place in the lower house that he is disqualified from appointment to any office for two years, he would be very loath to accept it; and, on the other hand, if it was a place in the Senate to which he might be the unanimous choice of his district, if he had any idea of succeeding the Circuit Judge of his Circuit, his Solicitor, his Probate Judge, in case of a vacancy he would stop and think several times before he placed himself in the attitude of being ineligible to such appointment should the necessity for one arise. I do not think there is any very good reason for the

section as it exists in the report of the committee on Executive Department. It has been said here that we should be slow to make changes in the present constitution, and these changes should not be made without there existing very good reasons for them, and I am unable to see any good reason for the section as proposed by the committee. The amendment proposed by the gentleman from Limestone is all right, but it does not go far enough, it does not put sufficient restrictions around the General Assembly.

MR. SANDERS—May I ask the gentleman a question.

THE PRESIDENT—Does the gentleman from Bibb yield?

MR. THOMPSON—Yes sir.

MR. SANDERS—In what respect does it modify mine?

MR. THOMPSON—Simply adds no gentleman shall be appointed to office the emoluments of which shall have been increased by the Assembly of which he was a member.

MR. SANDERS—I accept the amendment.

MR. THOMPSON—And I hope the convention will adopt this section instead of the section proposed by the committee.

MR. CUNNINGHAM—Wisely or unwisely this convention has been placing restrictions upon gentlemen who have been elected to high office. A proposition is now pending not to apply that rule to members of the General Assembly. I believe Mr. President that if we can not risk the Governor in the full and complete discharge of his duties, that he might be a candidate to succeed himself or go to the United States Senate. I cannot see any superior excellence in a member of the legislature that would prevent him from voting in a certain direction in keeping with the Executive idea. I for one, believe that the Governor of the great State of Alabama is equal in integrity and in patriotism to any member of the Legislature, and as we have committed ourselves to the policy of restricting the Chief Executive and other State officers, it seems to me that the reasons are still more urgent that we should restrict the members of the legislature. There are members of the legislature. There are members on this floor, Mr. President, that have run up against this question, and have had experience upon it and I challenge any member on this floor to point us to a single instance where the Chief Executive of the State had a question in mind that he desired to be enacted into law, that any member of either house who was at the time a candidate for office, where the appointment was to be made by the Executive, voted contrary to the Executive's wishes. It sometimes happens that a Senator or a member of the house is a candidate for Railroad Commissioner. It places such a legislator in a very embarrassing position to be forced to oppose the appoint-

ing power if the appointing power advocates a certain line of legislative policy. If there should happen to be a solicitor or a judge upon whose life it would seem the Almighty had placed his hand, and that in a short time he may have passed away from this earth to his reward, there might be Senators and representatives that would aspire to fill the position and for that reason would not like to run counter and oppose the Executive idea. We have gone so far, Mr. President, as I understand it to allow the Executive to suggest amendments to bills which he has vetoed, and which if amended he would approve. It does seem to me that this is far enough, and while I do not bring into question the motives of any Senator or Representative that may have represented his district or county in the past or may in the future, it has been my observation that gentlemen of either house who are candidates for office usually ride in the band wagon of the Chief Executive. That being the case, I want to untie the hands of the General Assembly so there can be no cudgel either justly or unjustly wielded over their heads. I hope the amendment offered by the gentleman from Bibb will be defeated and I move to lay it upon the table.

MR. OATES—Will the gentleman withdraw the motion a moment.

MR. CUNNINGHAM—I withdraw the motion.

MR. OATES—I will renew it—perhaps a little enlarged. Mr. President, this section properly belongs to the Legislative Department, and it has been before that Committee, and elaborately considered and amended by the insertion of one word which that Committee thought would meet the objections to it as it stood, and as I am decidedly in favor of that, I think it the proper place for it, though not wholly inappropriate here as it relates to the Governor, yet it relates more particularly to the Legislature, and the eligibility of members for appointment to certain offices the restrictions to which are it seems to me, more explicitly stated, and with all due respect to the Committee and gentlemen who have offered amendments, I move to lay the section of the Committee as reported, with the amendments, on the table.

MR. JONES (Montgomery)—I hope the gentleman will withdraw that. The Committee has not said a word.

MR. OATES—I will certainly do so for the purpose of allowing the chairman of the Committee to be heard.

THE PRESIDENT — The Gentleman from Montgomery (Oates) withdraws his motion to table, in order that the Chairman of the Committee may discuss the question.

MR. JONES (Montgomery)—So far as this matter concerns the appropriate place in the Constitution, it seems to me that it is entirely appropriate either in the Executive or Legislative

Article. We have the matter before us, and we can settle it now. While I yield great deference for so influential a committee as that on the Legislative Department, I do not see why this convention should suspend judgment because that Committee, which has not yet reported, thinks it has something better than we now have. If that Committee has something better let them bring it forward, and if it meets the wishes of the Convention the amendments will be accepted. I only wish to add one word to the forcible argument which has been made by the gentleman from Jefferson (Cunningham). One of the best ways to test a principle is to observe its practical working. I may perhaps be pardoned for referring to some advice that a very wise politician gave me some years ago, when I had a troublesome office, which had many appointments to make. He said: "You have three Railroad Commissioners to appoint. There are as many as 100 applicants. The members of the General Assembly are urging this one and that one. If you have any legislation that you want to get through, don't you appoint these Railroad Commissioners until the end of the session, because if you do you will be torn to pieces. If you will hold those appointments—not announce what you will do—but keep them until the end of the session, you can do almost what you please during the session as to any honorable or fair proposition that you want and hold the two Houses in the hollow of your hand." Mr. President, there have been times when this power of the Governor to appoint—the power of the Governor to make members of the two Houses believe that they would ingratiate themselves in his favor by supporting bills and measures he favored—would be repaid in the future by appointments to office, has, so to say, made a Governor master of both Houses of the people was reversed, and their intense longing for the will of the people was reversed, and their intense longing for a Constitutional Convention was throttled in the very Houses which gave it birth. For reasons like these the Committee believe this is a wise provision to put in the Constitution. It is in the Constitutions of other States with late experience of that subject. We wish as far as we can—while it may operate harshly in particular instances—to get men to come to the Legislature who come here to work for the welfare of Alabama, and not to get an office. How many elections for Solicitors have we seen where good men on the outside, competent men on the outside, were defeated by some member of the Legislature who had the power to traffic and trade in offices; and if this Convention, as I believe is its desire, wishes to improve the standard of political morality in this State, don't let us vote down a proposition like this.

MR. OATES — I desire to read Section 17 of the present Constitution.

Section 17—No Senator or Representative shall, during the terms for which he shall have been elected, be appointed to any

civil office of profit under this State, which shall have been created or the emoluments of which shall have been increased during such term, except such offices as may be filled by election by the people.

It is probably not out of place, as I refer to this having been amended by the Committee on Legislative Department to show wherein it has been changed. It will read: "No Senator or Representative shall during the term for which he shall have been elected, be appointed to any civil or military office, etc." That is the only change proposed to be made by that Committee. I renew the motion to table.

MR. JONES—On that I call for the yeas and nays.

MR. CUNNINGHAM—I call for a division of the question.

THE PRESIDENT—The gentleman from Montgomery has the floor.

MR. OATES—I am not disposed to throttle debate, and I will withdraw the motion to table.

MR. CUNNINGHAM—Then I renew it, to table the amendment.

THE PRESIDENT—The gentleman from Bibb (Mr. Thompson) has the floor.

MR. THOMPSON — Mr. President and gentlemen of the Convention, I regret that I have to differ with the most distinguished men of this Convention, but, like them, I have my views upon this subject, and I think that opinion is formed without prejudice to any man, and not backed by passion or anything but what is for the future best interests of Alabama. Now as to the arguments of the distinguished gentleman from Montgomery, not one word, Mr. President, is applicable to this case. In the instances cited by him, it was not an appointment sought by any member of the General Assembly, but appointments sought by outsiders, who he argues were urged and supported by members of the General Assembly. Then, if he is right his Section has no effect. Why not, if the distinguished chairman of the Committee wants to carry out his purpose, make it a criminal offense for any member of the General Assembly to recommend any man to the Governor of Alabama for office, then he will reach his point, and not until then. His argument does not fit this case. He is simply working a past prejudice.

MR. JONES—I used it simply as an illustration of the power where they urged other people, still more so when they happen to be candidates themselves.

MR. THOMPSON—I submit that his illustration does not illustrate. No, Mr. President, and gentlemen of the Convention,

I hope the membership of this Convention will stop and think for one moment, and not be carried off their feet by any prejudice that may exist against any man that was Governor of this State in days gone by. Mr. President, it is to be hoped that the Civil War is over. It is to be hoped that some of our former political campaigns are over, and that memories of them are dead and gone. Are we going to frame this Constitution upon what may have been our political alignment in a former political fight? That is the whole force of the gentleman's argument. Now, the question is this: Will we say to some of the best men in the Counties that you shan't come to the General Assembly if you have any hope whatever of holding any office in your County that may become vacant during the time for which you are elected. Why, in some of the smaller Counties—they may not be so favorably situated as the County from which the distinguished Chairman of the Committee comes, they may not have numbers and numbers of men to select from, the people of that County might be unanimous for one man for the General Assembly and unanimous for another for the State Senate, and that man then by the acceptance of that office disqualifies himself from holding any place by appointment from the Governor of Alabama. Gentlement of the Convention, stop and think about that thing for a moment. In the words of my friend from Walker (Mr. Long) probably it may not be the big six, but the big three, against me on this proposition, Mr. President, but I believe I am right just the same, and I hope that the delegates on this floor will consider this proposition carefully and thoughtfully and vote for the amendment.

MR. LOWE—Mr. President, it is with some degree of pleasure to myself that I can feel that I am in accord with the Committee on Executive Department. I dislike to differ with my friend from Limestone, who I believe to be always conservative, and who is the author of this amendment. I believe that the report of the committee should be adopted, and I believe that the reasons which inspired the committee to make the report upon this particular section, should even yet act upon the committee and make them withdraw or modify the report that they succeed in passing here in this House on yesterday. On yesterday they succeeded in passing through this House a proposition that gave to the Executive power exceeding that of any dozen or more members that the people send here. Today, by their report, they recognize the fact that there should be limitations placed upon the power of the Executive. The reason for it, Mr. President, is more readily understood by those who have had experience than it can ever possibly be stated or explained. We know the power of the Executive. We know that it is insinuating in its nature. We know that it travels no beaten path. We know that it finds its mark in the way most open and most plain to it.

When for the first time in all of the history of representative government, so far as I know, you give the Executive the right practically to sit upon the floor, and amend legislation, and then if you go further and allow that Executive to select from among the members of that Legislature his appointees to office, you know you put into one man's hands the power to run your State. It seem's so plain to me, I do not see why men should differ about it. Why isn't it wise and well to preserve the separate departments of the government, distinct and independent of each other? Why isn't it well to say in the language of the committee, that the Governor shall not go upon the floor of the House to select his appointees? It may never happen that Alabama will ever need one of them, or one of us, to fill any public office in her gift. There are eighteen hundred thousand people in Alabama. They will never need one of the Legislative Department to fill any public office, for there are as good men out of the General Assembly as will ever be sent to it. It will not only keep up the lines of demarkation between the departments, but make them stronger. The man who is willing to serve the State as a legislator—and it is always a matter of self-sacrifice—ought not to be called upon again to surrender his own interests and serve the State in some other capacity. There will never be a time in Alabama, or in any county in Alabama—and my friend from Bibb need not be disturbed—that there will not be found worthy men in every county and every precinct in Alabama fit to serve in any capacity to which the people may call them. I think the report of the committee should be adopted, and I think the committee ought to recognize that provision is inconsistent with their provision of yesterday, whereby they ought to tear down the lines of demarkation between the departments.

MR. CUNNINGHAM (Jefferson)—I will briefly and courteously criticise the position taken by the delegate from Bibb, that the dead past should bury its dead. The advantage that one civilization has over previous civilization is the lessons of the past; the things that are good, as examples to be followed, and the things that are evil, as examples to be shunned. We can do this without mentioning names and instances, and calling to mind certain particular things. That could be done on this occasion, but propriety and good taste forbid it. I will never submit nor subscribe to the proposition that if in going a certain path I run up against a stone wall, that should I start out again I should not take another path or have the stone wall removed. Therefore, I say that it is the duty of this Convention to apply the lessons of the past, it matters not whence nor where they come, nor what the motive, to the future, and I subscribe to every word that has been uttered here by the committee, and by my colleague from Jefferson, that there is no reason why we should exempt a member of the Legislature from these inhibitions and restrains and

yet enjoin upon and require them of the Chief Executive of the State. I now renew my motion to lay the amendment on the table.

MR. REESE—The gentleman has spoken several times on this motion.

MR. CUNNINGHAM—Twice, which I have the right to do under the rules. I will withdraw my motion.

MR. REESE—Mr. President, movements for reform are frequently accompanied by much danger. There is sometimes a prevalence of views that leads up to an extreme at times, and we are apt to act incautiously. I think the adoption of this change, and I regard it as a radical change. Mr. President, might be serious for it changes a doctrine that has existed since the foundation of the government and we should contemplate to some extent the results that may follow such radical movement as the one now suggested.

Conditions in the recent past unfortunately have been frequently referred to upon this floor. I deem it unfortunate that a recent administration of the affairs of this State should have been the occasion of such frequent remarks. I differed radically with the policy of the last administration but I have always recognized and recognize now the ability of the recent Governor of Alabama, although I opposed him in politics.

Mr. President, the prejudices that arose in recent campaigns are not to be called on upon this floor to lead us into doing something we should not. This proposition here eliminates from service upon the floor of the Halls of our legislative bodies some of our ablest men. Conditions now in Alabama are such that we are not able to secure the services of our best men in legislative capacities. In my own county there exists and has existed in getting our ablest men. Our ablest men have been urged and pleaded with, without success, to take these offices. We urged and pleaded with our ablest men from Dallas to come here and fill the positions on this floor that I and my colleagues are now filling, without success. The only candidates before the people of Dallas County were the men who occupy position on this floor today. Every man who was a candidate before the people of Dallas County occupies a seat in this Convention hall.

Now, Mr. President, this is not an attractive eposition. It is a field that is without adequate compensation. Most of us who come here in some way or other spend $4 a day and neglect our important business at home and if you further the curtailment and elimination of our men best capacitated to fill these offices, there will be greater difficulty in getting our ablest men to come. It is a fact that a member of the legislature will exercise just as much chicanery or whatever the friends of this measure choose to

call it, in dealing with the Governor in the interest of a friend as they will for themselves, and some of us exercise more. When a man comes to the legislature he will use his legislative vote just as much to accomplish the appointment of some other man as he will to accomplish his own appointment and he can do it with greater decency. Why, Mr. Chairman, I have heard since the organization of this Convention a gentleman who occupies a position upon this floor say that the people of the County would probably vote against the adoption of the Constitution unless a minor office in the Convention was given to an applicant in that County. That shows how far men will go in support of the claims of their friends. Mr. President, I appeal to this Convention to be conservative and not thoughtlessly rush into matters that will eliminate and disqualify many of our ablest citizens. In other words, will an able man make the sacrifice of neglecting his own business to occupy a seat upon these legislative floors if he has ambition when, by taking that seat, he surrenders his ambition for two or perhaps four years?

MR. O'NEAL—Does the gentleman not recognize that fact that the adoption of this provision will have a tendency to increase the independence of the Legislative Department?

MR. REESE—I do not.

MR. O'NEAL—Does the gentleman deny that the effect of this will be to increase the independence of the Legislative Department?

MR. REESE—I don't think it will have that effect. I think everything that has been done in the past if there have been such things done by men to get an office for themselves will be continued for the benefit of the men they represent and Mr. President, the men who seek these positions of Railroad Commissioners and Convict Inspectors and other places select their representatives and send them here upon that errand to accomplish that purpose and they will do it and when you debar honorable and capable men from being appointed to these offices it will be easy for the prospective candidates for those offices to select their men to run to represent them.

MR. O'NEAL—Did I understand the gentleman to say that the best men do not come to the legislature?

MR. REESE—I unquestionably did say so.

MR. O'NEAL—If that is true, do you think it wise to allow the Governor to appoint men to high and important offices from the legislature?

MR. REESE—The gentleman's question is an argument in favor of the proposition I make. I do not concede the last proposition made by the gentleman to be true. He evidently insinu-

ates that the legislature as at present organized, is composed of unfit men to these appointments and still he proposes to further lower the standard of the legislature by eliminating a great many men who are fit for offices of this kind. We do have some men in that body who have sufficient patriotism to make the sacrifice necessary to go to the legislature and those men should not be debarred.

MR. CUNNINGHAM — Will the gentleman permit me a question?

MR. REESE—Certainly.

MR. CUNNINGHAM—Does the gentleman from Dallas advance the argument that the hope of appointment to office should operate as an inducement for distinguished and able men to offer themselves as a sacrifice for service in the legislature?

MR. REESE—No, sir, I do not.

MR. CUNNINGHAM — Then I misunderstood the gentleman's argument.

MR. REESE—The proposition I desire to impress is this: That we do have a difficulty now in getting able men to go to the legislature. Sometimes some of them do come and I ask you not to put a further obstacle and handicap on them by saying to them if you do come you shan't have any office during the four or two years for which you were elected. Mr. President, I have not seen any great abuse of this as far as my observation has extended. The abuse has mostly been made by members of the legislature who are sent here by these men who want these offices and generally the influence of the legislature has been used in behalf of men who are not members of the General Assembly. Sometimes there has been an exception, probably numerous exceptions.

MR. SAMFORD—I now move to lay the amendment of the delegate from Bibb on the table.

MR. CUNNINGHAM— And upon that the ayes and noes are called for.

THE PRESIDENT — The gentleman moves to lay the amendment of the gentleman from Bibb as distinguished from the gentleman from Limestone on the table.

MR. SAMFORD—I understood that was accepted by the delegate from Limestone. I moved to lay both of them on the table.

THE PRESIDENT—The ruling of the Chair is that after a motion has been placed in possession of the Convention, without unanimous consent it cannot be taken from it and the gentleman

from Pike moves to lay upon the table the amendment offered by the delegate from Limestone and the substitute offered by the delegate from Bibb and upon that the ayes and noes are demanded.

MR. LONG (Walker)—I make the point of order that that motion should be separated.

THE PRESIDENT—In the opinion of the Chair the point of order is not well taken.

MR. REESE—Can I understand what the motion is?

THE PRESIDENT—The motion is to table the amendment of the delegate from Limestone and the substitute of the gentleman from Bibb.

MR. BROWNE—I make the point of order that the motion is not in order. You cannot move to lay an amendment and an amendment to that on the table.

MR. WHITE—The gentleman from Limestone accepted the amendment of the gentleman from Bibb and therefore only a matter is before the House.

THE PRESIDENT—In the opinion of the Chair the point of order is not well taken. The Convention can lay an amendment or the whole Section and amendments on the table. The object of laying on the table, as originally understood, is that it lies upon the table and may be taken from the table any time in the future that it is desired.

MR. PETTUS—To meet the views of the gentleman who want to vote differently on the two propositions, I demand a division.

MR. CUNNINGHAM—I make the point of order that the delegate from Limestone accepted the substitute of the delegate from Bibb to which acceptance there was no objection and therefore there is only one matter before the Convention.

THE PRESIDENT—The Chair has uniformly ruled where amendment have been offered after the proposition has been placed before the Convention even amendments offered by a Committee to its own report cannot be accepted except by unanimous consent and unanimous consent was not asked in this case and the pending amendment is the amendment of the delegate from Bibb and the amendment of the delegate from Limestone, and the Delegate from Pike moves to table both amendments.

MR. PETTUS—And I ask a division to meet the views of some of the members who want to vote differently on those two propositions.

MR. JONES (Montgomery)—I rise to point of order. There is nothing to divide.

MR. SANDERS—If I am in order, I ask unanimous consent that the amendment offered by the delegate from Bibb may be considered as my amendment, so that we can save time.

THE PRESIDENT—The gentleman from Limestone asks unanimous consent. Is there objection. The Chair hears none and the amendment proposed by the delegate from Limestone will be considered as having embodied in it the proposition of the delegate from Bibb.

The amendment of the Committee and the substitute of the delegate from Bibb were read.

THE PRESIDENT—It is moved that this amendment be laid upon the table and upon that the ayes and noes have been demanded.

MR. BEDDOW—I rise to a point of order, that the call for the ayes and noes has not been sustained.

THE PRESIDENT—The question is, shall the call for the ayes and noes be sustained.

Thereupon the call for the ayes and noes was sustained by the rising of the requisite number of the delegates.

The result of the roll call on the motion to table the amendment of the delegate from Bibb was as follows:

AYES

Ashcraft,
Barefield,
Beavers,
Bethune,
Chapman,
Cobb,
Cofer,
Coleman, of Greene,
Cornwall,
Craig,
Cunningham,
Davis, of DeKalb,
Dent,
deGraffenreid,
Duke,
Eley,
Espy,
Ferguson,
Fletcher,
Gilmore,
Glover,
Graham, of Talladega,
Grant,
Greer, of Calhoun,
Greer, of Perry,
Handley,
Henderson,
Hodges,
Howell,
Howze,
Inge,
Jackson,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Kirkland,
Knight,
Leigh,
Locklin,
Lowe, of Jefferson,
Lowe, of Lawrence,
MacDonald,
McMillan, of Baldwin,
Malone,
Maxwell,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Morrisette,
Mulkey,
Norwood,
Oates,
O'Neal (Lauderdale),
O'Neill, of Jefferson,
Opp,
Palmer,
Phillips,
Porter,
Reynolds, of Henry,

Robinson,	Smith, Mac. A.,	Vaughan,
Rogers (Sumter),	Smith, Morgan M.,	Weakley,
Samford,	Spragins,	White,
Sanford,	Stewart,	Williams (Marengo),
Selheimer,	Tayloe,	Winn,

TOTAL—76.

NOES

Messrs. President,	Haley,	Proctor,
Almon,	Harrison,	Reese,
Altman,	Heflin, of Chambers,	Renfro,
Bartlett,	Heflin, of Randolph,	Reynolds (Chilton),
Beddow,	Hinson,	Rogers (Lowndes),
Blackwell,	Hood,	Sanders,
Boone,	Jenkins,	Searcy,
Brooks,	Jones, of Bibb,	Sentell,
Browne,	Kyle,	Sloan,
Bulger,	Ledbetter,	Smith (Mobile),
Burnett,	Long, of Butler,	Sorrell,
Burns,	Long, of Walker,	Studdard,
Byars,	McMillan (Wilcox),	Thompson,
Cardon,	Martin,	Waddell,
Carmichael, of Colbert,	Moody,	Walker,
Carmichael, of Coffee,	Murphree,	Watts,
Carnathon,	NeSmith,	Weatherly,
Case,	O'Rear,	Whiteside,
Davis, of Etowah,	Parker (Cullman),	Willet,
Foshee,	Parker (Elmore),	Williams (Barbour),
Foster,	Pearce,	Williams (Elmore),
Freeman,	Pettus,	Wilson (Clarke),
Grayson,	Pillans,	Wilson (Washington),

TOTAL—68.

ABSENT OR NOT VOTING

Banks,	Graham, of Montgomery,	King,
Coleman, of Walker,	Lomax,	Mulkey,
Eyster,	Norman,	Sollie,
Fitts,	Pitts,	Spears,

So the motion to table prevailed.

MR. SAMFORD — I move the adoption of the Section as amended, and upon that I demanded the previous question.

MR. BROOKS—I move to lay on the table the Section reported by the Committee so that the Constitution will remain as it is and on that I call for the ayes and noes.

MR. JONES (Montgomery)—It is too late to make such a motion when the previous question is called for.

MR. BROOKS—A motion to table has precedence of a motion for a previous question under our rules.

THE PRESIDENT—The motion of the delegate from Mobile is to lay on the table—

MR. JONES (Montgomery)—How does the Chair rule on the point of order I made against that?

THE PRESIDENT—The Chair heard no point of order.

MR. JONES (Montgomery)—I made the point of order that there was a motion for the previous question before the motion to table and that motion for the previous question has precedence.

THE PRESIDENT—Under the rules the motion to lay on the table has precedence.

MR. JONES (Montgomery)—It must be under our rules then for it has not under general parliamentary law.

THE PRESIDENT—It is under our rules, and the question is on the motion of the delegate from Mobile to table the Section reparted by the Committee.

MR. BROOKS—And on that I call for the ayes and noes.

MR. O'NEAL (Lauderdale)—I rise to a point of order. The call for the previous question had been made previous to the motion to lay on the table, and the motion to lay on the table was too late. I admit the motion to lay on the table has precedence, but that precedence does not exist when there is a motion for the previous question pending.

MR. BROOKS—The idea of precedence could not arise if one motion was not offered before the other. The gentleman offers a motion for the previous question and then I offer the motion that the original section be laid on the table and I contend that has precedence as the Chair has properly ruled.

THE PRESIDENT—The Chair will overrule the point of order and the question will be upon the motion to table and upon that the ayes and noes are called for and the question is shall the call be sustained.

MR. JONES (Montgomery)—Do I understand the motion before the house is to table the call for the previous question?

THE PRESIDENT—No, sir; to table the section as read.

MR. WHITE—What became of the previous question?

THE PRESIDENT—That will be in order when the House disposes of the motion to table which has precedence.

MR. WHITE—I rise to inquire whether when the call for the previous question has been made anything is in order except to see whether that is sustained?

THE PRESIDENT—In the opinion of the Chair, the motion to table having precedence, would be in order, just as a motion to adjourn would be and the Secretary will call the roll.

MR. BROOKS—The effect of this motion, if adopted, is to lay on the table the section reported by the Committee, which would leave the Constitution as it now is.

THE PRESIDENT—The effect of the motion will be to lay on the table the section as reported.

MR. O'NEAL—And then there would be no law at all.

The call for the yeas and nays having been sustained by the rising of more than the requisite number, the roll call on the motion to table the section of the Committee's report, resulted as follows:

AYES

Messrs. President,
Almon,
Bartlett,
Brooks,
Browne,
Bulger,
Burnett,
Byars,
Cardon,
Carmichael, of Coffee,
Case,
Davis, of Etowah,
Eley,
Foshee,
Foster,
Grayson,
Greer, of Calhoun,
Haley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Hood,
Jackson,
Jenkins,
Jones, of Bibb,
Kyle,
Long, of Butler,
Long, of Walker,
McMillan, of Wilcox,
Martin,
Miller, of Marengo,
Moody,
NeSmith,
Oates,
O'Rear,
Parker, of Cullman,
Parker, of Elmore,
Pearce,
Pettus,
Pillans,
Proctor,
Reese,
Renfro,
Reynolds, of Chilton,
Rogers, of Lowndes,
Sanders,
Searcy,
Sentell,
Sloan,
Smith, of Mobile,
Sorrell,
Thompson,
Waddell,
Walker,
Watts,
Whiteside,
Willet,
Williams, of Elmore,
Wilson, of Clarke,
Wilson, of Washington

TOTAL—61.

NOES

Altman,
Ashcraft,
Barefield,
Beavers,
Beddow,
Bethune,
Blackwell,
Boone,
Carnathon,
Chapman,
Cobb,
Cofer,
Coleman, of Greene,
Cornwall,
Craig,

Cunningham,
Davis, of DeKalb,
Dent,
deGraffenreid,
Duke,
Espy,
Ferguson,
Fletcher,
Freeman,
Gilmore,
Glover,
Graham, of Talladega,
Grant,
Greer, of Perry,
Handley,
Henderson,
Hodges,
Howell,
Howze,
Inge,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Kirkland,
Knight,
Ledbetter,
Leigh,
Locklin,
Lowe, of Jefferson,
Lowe, of Lawrence.
McMillan (Baldwin),
MacDonald,
Malone,
Maxwell,
Merrill,
Miller, of Wilcox,
Morrisette.
Murphree,
Norman,
Norwood,
O'Neal, of Lauderdale,
O'Neill (Jefferson),
Opp,
Palmer,
Porter,
Reynolds (Henry),
Robinson,
Rogers, of Sumter,
Samford,
Sanford,
Selheimer,
Smith, Mac A.,
Smith, Morgan M.,
Spragins,
Stewart,
Tayloe,
Vaughan,
Weakley,
White,
Williams, of Barbour,
Williams, of Marengo,
Winn,

TOTAL—79.

ABSENT OR NOT VOTING

Banks,
Burns,
Carmichael, of Colbert,
Coleman, of Walker,
Eyster,
Fitts,
Graham, of Montgomery,
King,
Lomax,
Phillips,
Pitts,
Sollie,
Spears,
Studdard,
Weatherly,

So the House refused to table the section of the Committee report.

MR. GREER (Calhoun)—I want to explain my vote.

Objection was made.

THE PRESIDENT—Objection is made. Except by unanimous consent members are not allowed to explain their votes.

MR. SAMFORD—I now demand the previous question on the section.

THE PRESIDENT—The gentleman from Pike moves the adoption of the section as amended and demands the previous question. The question is shall the main question be put?

On motion the main question was ordered, and a vote being taken the section as amended was adopted.

MR. PETTUS—I desire to give notice that I voted in the affirmative and on tomorrow I will move a reconsideration of the vote by which this section was adopted.

MR. deGRAFFENREID — I voted for the adoption of the section and I move now to reconsider the vote by which it was adopted.

MR. PETTUS—I rise to a point of order. I have made the motion to reconsider and give notice that under the rules it would go over until tomorrow.

MR. deGRAFFENREID—But I make the motion now.

MR. PETTUS—And I make the point of order that the gentleman cannot cut off my right to demand that reconsideration.

MR. HOWELL—I make the point that the delegate from Limestone voted in the minority and he can't make this motion to reconsider.

MR. PETTUS—I voted in the affirmative on the final vote expressly for the purpose of a reconsideration and I gave notice that I would make that motion tomorrow.

MR. GREER (Calhoun)—I rise to a point of order.

THE PRESIDENT—The Chair is considering a point of order now.

MR. PETTUS—Under Rule 27, page 11, when a motion for reconsideration is decided, that decision shall not be reconsidered, and no question shall be twice reconsidered.

A DELEGATE—What part of the rule are you reading?

MR. PETTUS—I am reading the latter part of rule 27. I submit that the intention of that rule is to give a member the privilege of reconsidering any question on a succeeding day and it is a violation of the spirit of that rule for any member who voted in the affirmative to take this motion out of the mouth of a man who may have voted with the minority if he had voted his sentiments, and call up the question at that time thereby cutting off the opportunity of the Convention to reconsider on the succeeding day. I make the point that the motion is out of order.

MR. deGRAFFENREID—I think the motion is in order, but that it would go over until tomorrow.

THE PRESIDENT—The Chair rules that the gentleman from Hale may make the motion to reconsider but without a suspension of the rules it would go over until tomorrow.

THE PRESIDENT—The Chair will now recognize the gentleman from Calhoun who rose to a point of order.

MR. GREER (Calhoun)—I withdraw my point of order.

THE PRESIDENT—The opinion of the Chair on a point of order made by the gentleman from Limestone is that merely giving notice that a person intends to move a reconsideration would not cut off another delegate from actually making the motion but when a motion is made it would go over, unless the rules were suspended, until the next day for reconsideration. The clerk will read the next Section.

The Clerk read as follows:

Sec. 21. No person shall be eligible to the office of Secretary of State, State Treasurer, State Auditor, Superintendent of Education, Attorney-General or Commissioner of Agriculture and Industries, unless he shall have been a citizen of the United States at least seven years and shall have resided in this State at least five years next preceding his election, and shall be at least 25 years old when elected.

MR. JONES (Montgomery)—That is the identical language of the old Constitution except that we put in two officers who are Constitutional officers under this Constitution who were only statutory officers under the old Constitution, and if no member has any desire to amend this I will move the adoption of this Section.

MR. OATES—I move to strike out the word "State" before the words "Treasurer" and "Auditor." We have done that in all other portions of this report.

MR. JONES (Montgomery)—I hope the gentleman will withdraw that. We can settle that in the Committee on Harmonics.

MR. OATES—We can settle it just as well here.

MR. JONES—If that is insisted on I desire to be heard on it.

MR. OATES—Well, I decline to make a speech on it. I thought the Convention has acted on that heretofore.

THE PRESIDENT—Does the gentleman from Montgomery (Mr. Jones) desire to be heard on it?

MR. JONES (Montgomery)—Yes, sir. When this matter of striking out the word "State" first came up we did agree to the striking out of the word State before Auditor and Treasurer out of deference to the gentleman, but we think we did it prematurely. You have, for instance, County Treasurers, and a whole lot of Auditors, and we are making a Constitution for the State of Alabama and we want to inspire as far as we can a feeling of pride in our citizens and it seems to me it sounds better in the Constitution to say State Treasurer and State Auditor, than to chop off

he "State" and simply say "Treasurer" and "Auditor." That is the reason we are unwilling now to strike out that word.

A vote being taken the amendment of the delegate from Montgomery (Mr. Oates) was lost.

MR. CHAPMAN—I have an amendment.

The amendment was read as follows:

Amend Section 21 by striking out the word "twenty-five" in the fifth line, and inserting the word "thirty."

MR. JONES (Montgomery)—I move to lay that on the table, unless the gentleman desires to discuss it.

A vote being taken the amendment was tabled, and a further vote being taken the Section was adopted.

Section 22 was read as follows:

Sec. 22. There shall be a great Seal of State, which shall be used officially by the Governor, and the Seal now in use shall continue to be used until another has been adopted by the General Assembly. Said Seal shall be called The Great Seal of the State of Alabama.

MR. JONES (Montgomery)—There is a substitute reported by the Committee to that Section.

The Substitute was read as follows:

Commemorative of the heroism of Emma Sansom the Great Seal of the State which shall be used officially by the Governor shall consist of the figure of an officer on horseback, fully armed, and a young woman seated behind him with her left hand pointing forward, and the legend "I will show you the way." Said Seal shall be called the Great Seal of the State of Alabama. The Committee recommend that Section 22 of the Ordinance creating and defining the Executive Department as reported by them be stricken out and the substitute be adopted in lieu thereof.

MR. JONES (Montgomery)—This substitute was the proposition offered by the gentleman from Montgomery (Mr. Sanford) and I desire on behalf of the Committee to yield to the senior member from Montgomery on this question.

MR. SANFORD—Mr. President I thank the able, polite and chivalrous delegate from Montgomery for waiving his rights in my behalf. But the gratitude I might feel is greatly diminished by a sense of the responsibility that his politeness has imposed upon me. And the sense of the responsibility is somewhat intensified by the eager interest which I feel in this subject.

Before as intelligent an audience as this Convention I hope I may be pardoned if I remind them of a few facts and for that purpose I ask their indulgence and patience.

The Seal of a great State everywhere in Christendom is considered the only means by which the sovereign power can make known its will and it is perfectly immaterial whether the Government be a republic, a despotism or a limited monarchy, it is the only means in which the sovereignty can express its desires or its purpose.

We know that in England, whence we derive a great many of our institutions of liberty, that the Great Seal of Great Britain was changed upon every accession of a new sovereign, or upon every change of its arms, that the old seal was broken and the fragments were given to the Chancellor as his perquisites.

Now, has Alabama any seal de jure? Has it ever had since 1865? What is the great seal of Alabama? May I take the privilege of reading the description of it by one of the most lettered and scholarly and patriotic gentlemen in this broad commonwealth. I refer to the distinguished Professor Wyman, of the State University, who describes it in this language:

"A bald-headed eagle—recognized as a bird of prey, ever since the days of the patient Job—a bald-headed eagle, with a cluster of sharp arrows clutched in one claw, tramping on the escutcheon of State. The eagle's wings are uplifted, as if he were just hoping sweep down on the State Treasury! His neck is craned out to its full length, as if he were getting ready to bury his beak in the vitals of the body politic! This bald-headed eagle fitly represents the swarm of foul birds who came from the four ends of the United States and from Austria and Africa to loot and to devour the little substance that the impoverished people had remaining to them as the result of the downfall of the Southern Confederacy. But what is most striking and characteristic of all, the so-called bird of freedom bears in the beak a scroll on which is inscribed the carpet-bagger's favorite motto: "Here we rest!"

All this is profoundly symbolical, it is true, but it is something more—it is pretty nearly diabolical. Whether the fellow from Maine or Michigan—his name, fortunately, has not come down—who devised this coat of arms was unconscious of travesty on the art of heraldry which he was inventing, or whether he was cunningly devising a piece of cruel waggery for the torture of an unoffending people, I do not know—and it makes no difference. The present Seal of State ought to be broken and thrown out on the ash pile, and the next General Assembly ought to appoint a commission to devise a new coat of arms for Alabama.

How wonderfully correct is it in saying it represents nothing that is characteristic of Alabama! And his description of the in-

fluences that caused it to supersede the old Seal of the State is entirely accurtae.

We know that from the 2nd of March, 1867, that the people of this State for many years were under a military government of almost absolute despotism. We know that the Convention that assembled here in 1867 on the 1st of September was composed largely of persons who had no permanent domicile within this State. It was composed of negroes. It was composed of foreigners, some of whom owed their citizenship to having served in the army and to having plundered our people with resolute rapacity. They made it. Now it was an old rule of a wise people that whenever a bad man or a disreputable character, introduced a wise measure in an assembly it was voted down. Why? Because they did not wish to give any consideration to such characters and then afterwards some good and patriotic citizen would at once reintroduce the measure and it would be passed. So if that is a good seal which was placed upon us on the 29th of November, 1868, it would be well to discard it, because it is not the choice of the people of Alabama. Let us see with regard to that. Some of you gentlemen took part in the proceedings of reconstruction. You were old Confederate soldiers. You were statesmen taking part before the people in the great questions that agitated our country. You knew precisely the character of the men who imposed this travesty of a seal upon our people. It never was adopted. The very Constitution which that rabble pretended to ordain was voted down by the people of Alabama by a vote of more than seven thousand majority and was so reported by Gen. Meade to the Federal Government, but notwithstanding this fact it was foisted upon us, upon perjured testimony, such as that big swamp in Lowndes County was frozen over and thousands of voters patriotic in their purposes, could not get to the polls, which was as arrant a falsehood as if you were to say that the Alabama River were blocked up with icebergs in the month of June. Notwithstanding that fact it was placed upon us and with hot speed they had a Legislature to convene about the first of November following and they adopted this seal which I utterly denounce and despise. It seems to me if ever a people had the right to select their own seal, Alabama has, and should do so.

But it may be said by some gentleman that the Convention of 1875 did not change it and that no Legislature since has changed it. One reason was that the Convention of 1875 was limited in time, that it met almost in alarm, notwithstanding the gallantry of many of its wise men, and it dispersed in a panic—dispersed absolutely before the sheets forming the Constitution were fastened together, in order to come within the time in which they were limited. Therefore, it had no time to do it and since then the Legislature seems not to have anybody to call attention to it until 1894 when a bill creating a seal passed the House by a handsome vote and was defeated in the Senate simply by want of time.

It does seem to me that as we are here revising the Constitution there is no better time than now to make such a seal as is characteristic of our people.

The seal which has been proposed shows the purity of our women and the heroism of our men, it shows devotion to free government. It shows courage. It shows the deference we pay to womanhood and therefore I hope this Convention will adopt the seal which has been presented.

The seal originally proposed was that of the figure of a soldier clad in the uniform of a Confederate General, mounted on horseback and fully armed, with a young woman pointing forward, and around it the inscription "I will show you the way." A more beautiful inscription for Alabama could not be devised and a more heroic act of womanhood during the famous four years' struggle between these republics never was performed. Therefore, it would well represent us.

And pray who was this young woman? She was the daughter of a farmer in Cherokee County. It was well she came from that County. Cherokee means "The sons of fire" and this young woman was a sister to the sons of fire that have stood by us through so many years of hardship and peril in many parts of the world.

It was in the month of May, 1863, about noon, the clang of arms and the clatter of horses' feet were heard approaching Gadsden. A young girl not older than a school maiden was standing at the door of her home as they rode up. She had just arrived from Gadsden when the Federal troops endeavored to seize her horse. Under their officer's command they desisted and they passed on. Within a very short time afterwards came in hot pursuit Bedford Forrest, known the world over as the "wizard of the saddle." Riding up and seeing the mother of this young woman standing in front of their modest building he asked, "Is there a ford in this neighborhood? Can any one show me how I can get across the creek?" Because he beheld the smoking timbers of the bridge over Black Creek in front of him. The young woman said: "I know where the ford is." "But where is any man?" The mother said: "My sons are in the army," and the girl said: "I will show you the way." Thereupon Forrest said: "I will have a horse saddled for you," and she said: "No, we have not time," and she climbed on his horse and rode behind him down a little brook until they were discovered by the enemy, who fired upon them, and then she dismounted and walker before Forrest who placed her behind him and said: "I am willing to take a lady for a guide, but not as a breast works. Stay by this tree," he said and went on reconnoitering the ground, and the ford and when he discovered everything that was necessary he looked around and the young woman stood at his back. He said to her: "Why do you do this?" And she said: "I was afraid you would be shot

and I wished to be near you." Then they retired. He had discovered everything he desired to know, he marched his troops across the ford, pursued the enemy, brought them to bay near Turkey Town and there Colonel Streight surrendered to him two regiments from Indiana, one from Ohio, one from Illinois, and 200 renegades from the mountains who had joined the marauders and Forrest thereby saved Rome.

If other people have cherished the heroic deeds of men and women and other states and countries have been immortalized by the splendid achievements of their citizens, why should not Alabama do the same thing in regard to her own immortal daughter? I remember an instance of patriotism, and if you will pardon me, I will relate it. There is a story of a young Austrian girl who went to Switzerland for the purpose of earning a livelihood by daily labor. She was skilled in the management of cattle, and she attended the pasture. Being there she discovered on one occasion that the Swiss became gloomy, that they ceased to engage in their business, that the women tattled no more upon neighborhood affairs but gathered around the men quietly together. She discovered that there was a conspiracy to take Bregenz, her native town. Thereupon, when the people had retired she took from her employer's stable a splendid white animal and rode during the night to Bregenz, rode so rapidly that the wind did not surpass her in her speed. She arrived at the banks of the Rhine; the horse paused; she lashed him; he plunged into the dark waters and swam to the opposite bank. Ascending it she saw the lights of her native town and rapidly rode to its gates. She gave the alarm and the soldiers came to ask the cause of the disturbance and she told them what she had discovered. The soldiers took their positions, the people were aroused and when the enemy arrived at dawn next day they found the city entirely prepared to receive the assault; and from that day for more than three hundred years as the Sentinel paces his solitary rounds on the ramparts, he calls the hours of the night: "9 o'clock and all's well;" "10 o'clock and all's well;" "11 o'clock and all's well," and when 12 o'clock strikes and midnight pauses in the sky he shouts the young woman's name, and the mountains echo it back. And on the walls of Bregenz is the faded image of a horse exhausted by his flight and a young woman standing by his side. Was there ever anything more splendid in all history save that instance of heroism in Cherokee County. That young woman had all the purity of the Austrian maiden. She had more than her heroism, she was everything that our people can desire, noble and patriotic, I might say chivalrous.

I remember another instance, and pardon me for telling it. When the people of Etruria sought to re-establish the throne of Tarquin, Porsenna organized a large army and had beaten the Roman armies opposed to them until they had reached the very

walls of Rome. They had captured on their way or had had sent to them as a hostage, a young woman. While the army held her she made her escape and when they beheld her she was in full flight. She had mounted on a horse and when she reached the Tiber she plunged in and when cruel Porsenna beheld that, on the eve of capturing Rome he paused and said, "A people that show such courage I desire for my friends," and they made a treaty of peace. If these people whom Forrest was pursuing had been as magnanimous they, too, would have retired and given peace and respect to the magnificent courage of our manhood and the gallant devotion of our women. Afterwards in Rome they erected a statute of Cloelia mounted on horseback and there it stood for hundreds and hundreds of years, typifying the patriotism and courage of that young maiden. She had saved Rome.

Emma Sansom saved the Rome of modern times. There we had military stores. There we had foundries, there we had provisions, there we had all that was necessary to supply our army and this young woman's courage enabled Forrest with five hundred men to capture a greatly superior force.

In as much as that act is peculiar to Alabama, and as nowhere else was there such an occurrence, it seems to me that we can but honor her by saying that Alabama remembers her and will immortalize that event. Alabama will put it on the seal of the State so that when her laws are attested to go abroad there will stand the fact of this officer and young woman riding into the blaze of battle, and she saying to him, "I will show you the way." What a magnificent inscription for a seal are those words. Alabama stands first in Constitutional Conventions, first in political and religious assemblages and first in your educational institutions and when she is called she can say, "I will show you the way." I will show you the way to a free government. I will show you way to be prosperous. I will show you how to make a people contented, industrious, peaceable. I will show you the way to honor. I will lead the way to glory. And yet, we say we ought not to substitute this for the miserable imitation of what? They call it an eagle. It is more like the last of a flock of carrion crows that fattened upon the carcass of Alabama when she lay dead and rotting under reconstruction acts infamous beyond anything that has ever marred the statutes of our country. When our people were all full of sorrow and gloom and melancholy, when it seemed that the earth itself under the domination of despots and their system of legislation had slipped from the hands of God and was darkiing down to hell. So I say to you, my countrymen, this last remnant of carpetbag rule should be swept away by the adoption of this seal.

MR. MARTIN—I rise to favor the adoption of the report of the committee in this matter.

When clouds of sorrow gathered over this country in years gone by and the war cry of liberty rang throughout the land, the men of this State obeyed the call of Alabama with alacrity. They came from the mountains and the valleys from the hills and the plains, from city and from hamlet. They came with their fortunes and their splendid young manhood and laid their all upon the altar of their country.

I see before me men who gave four of the best years of their lives to the service of their country. They were tested through all the trying vicissitudes of war and then were allowed to return to their people and families for which we are all profoundly grateful. But many of their comrades were not so fortunate. They died in the crowded hospital, in the fever stricken camp, and thousands of them went down to death upon the bloody field of battle. When Alabama had struck her last effectual blow and would do no more, you then grounded your arms and turned your weary faces toward your long deserted homes and with sad hearts you started in the affairs of civil life. Your hearts were sad, sad because the flag you had followed so long and loved so well was furled and furled forever, sad because the cause you so honestly believed in and for which you had made so many sacrifices was dead and dead forever. Sad, oh, how sad, because you were leaving so many of your comrades behind you. You had buried them on the hills and in the valleys and along the shores and the banks of deep rolling water.

Mr. President, our men were brave. They were self-sacrificing and devoted, but they were no more brave and patriotic than the women of Alabama. I stand here today to declare that the brightest pages of America's history will be those recording the heroic deeds and patriotic devotion of the women of the South all through those years of darkness and of blood and during the years immediately following the surrender.

Look at them, what was it they did? They made every sacrifice that could be made. They, women who had been reared in luxury and in ease, who had never done a day's work in their lives, who were as fair and tender as the flowers that bloomed and blossomed around their Southern homes, when the occasion demanded, went forth and with their untrained hands worked by night and by day making clothing to protect the soldier from the winter's cold and the Summer's burning sun. They took the jewelry from their persons and converted it into money in order to supply the men at the front with the comforts of life. They took the carpets from their floors and weaved them into blankets in order to protect the soldier in his winter quarters. Ah, and when he was sick like a ministering angel they hovered around his cot.

The hour for adjournment had almost been reached.

MR. JACKSON—I move that the rules be suspended and that the Convention continue in session until the pending section is disposed of.

MR. SAMFORD—I move to amend that by permitting the gentleman who is so eloquently addressing the Convention be permitted to complete his speech.

A vote being taken the rules were suspended and the delegate proceeded.

MR. MARTIN—I say, Mr. President, when he was sick and wounded, she hovered around his cot, ministering to his wants and nursed him back to strength and health, and blessed him with her prayers and sent him on to the service of his country.

She did more than that, Mr. President, she gave to Alabama the husband of her love, the father of her children. She gave to Alabama the young and noble boy upon whom she expected to rely in the years of her infirmities and to whom she looked for support and defense when she could not provide for herself.

Ah, yes, and God bless them, hundreds of them all over this land, when reduced to the necessity, women who had been reared in luxury and in ease, went forth to the fields in the winter's cold and in the summer's sun and with their own blistered and swollen hands worked from morn till night to raise a few bushels of corn and potatoes to sustain their helpless children while their husbands were at the front fighting Alabama's battles or filling unmarked soldier's graves. (Applause.)

And when you got home from the war, what did you see? Devastation and ruin on every hand. Your premises were in a state of decay, your gin-houses and your barns were rotting down. Your fences were gone, your fields were devastated or grown up in brush and briar. In many instances your dwellings were leveled to the ground.

Standing knee-deep in the poverty and ashes of your ruined fortunes your hearts heavy, despair had its spell upon you and you were almost disposed to give up and make no more effort. At that critical moment a gentle hand was laid in yours and a sweet and encouraging voice was heard to whisper in your ears, "Come on, I will show you the way." Under the guidance of that hand, under the inspiration of that loving voice, the manhood of this State shook off its lethargy, moved to the front and in the course of a few years Alabama gloriously rose from the ashes of her poverty and today stands in the front rank of States. And as she stands there ready to measure arms with any of her sister States in generous rivalry, that same unerring hand is seen pointing, that same sweet voice is heard whispering, "Move on, I will show you the way."

And now, Mr. President I stand here today in the shadow of that monument out yonder, erected as it was by woman's love and woman's patriotism, here is this historic hall of grand and sacred memory, here in this old Capitol Building today, let the roll be called while the delegates of this Convention vote an humble appreciation of the high esteem in which they hold the patriotic women of Alabama by perpetuating the glorious deeds of one of their sisters, Emma Sansom of Northeast Alabama, the brave girl of Cherokee, standing under fire of shot and shell with a steady hand pointing to the swollen waters of Black Creek and saying to the dauntless and peerless Forrest, "Move on, I will show you the way."

Let us adopt this seal proposed as it is by one of Alabama's most scholarly gentlemen, most proud and patriotic citizens, John W. A. Sanford of Montgomery.

MR. ROBINSON—I have a substitute which I will ask to be read so that it can be printed.

THE PRESIDENT—Unless there is objection the Secretary will read it.

The amendment was read as follows:

"Substitute for the amendment to Section 22 reported by the Committee on Executive Department, 'Commemorative of the origin of the name of the State of Alabama the Great Seal of the State which shall be used officially by the Governor shall consist of the figure of an Indian Chief followed by a small band of warriors, who in crossing a beautiful meadow, as he approaches the bank of a river, thrusts his spear into the earth, with the words inscribed on the scroll above his head, 'Here we rest.' The said Seal shall be called the Great Seal of Alabama."

THE PRESIDENT—The Chair advises the delegates that we are in receipt of a telegram from the Constitutional Convention of Virginia, which I will read:

To the President and Delegates of the Constitutional Convention of the State of Alabama:

The Commonwealth of Virginia, through her representatives in Convention assembled, sends cordial greetings to the President and members of the Constitutional Convention of Alabama now sitting at Montgomery.

Alabama and Virginia have long been bound together by the strongest and closest ties of interest and affection. The people of the two commonwealths are animated by the same hopes, the same aspirations.

In acknowledging the courtesy of your message, we beg to express the earnest hope that in the wise and just determination of the momentous questions now under consideration, we may not only establish the peace and

prosperity of our respective States, but contribute to the general welfare of our common country and the good of mankind, thus justifying the confidence of our citizens and the reasonable hopes of our countrymen.

JOHN GOODE, President.

MR. REESE—I move that that be spread on the Journal of this House.

A vote being taken the motion was carried and the Convention then adjourned.

CORRECTIONS

Ordinance 389 above printed should be as follows:

Ordinance No. 389, by Mr. O'Neill of Jefferson:

Be it ordained by the people of Alabama in Convention assembled, That no agent of any person, firm or corporation, whose place of business is located in this State, shall be charged license tax by any city, town or municipal corporation in the State of Alabama, to which said agent may come, when said person, firm or corporation is engaged in soliciting business in towns to which said agent comes in cases where it would be unlawful under the inter-State commerce law, if said agent or drummer represented a person, firm or corporation doing business out of the State.

See also remarks of Mr. Robinson and Mr. Graham at beginning of this days report.

TWENTY-FIFTH DAY

MONTGOMERY, ALA.,

Thursday, June 20, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Murphy, as follows:

O Lord and Judge and Father of us all, whom to know is life eternal, and to serve whom is to be free indeed, keep us, we beseech Thee, under the shadow of Thine hand and within the pathways of Thy will. Grant to us the counsels of wisdom and the gifts of the teachable, and the pure, that with one mind we may promote the prosperity and happiness of the people, and that with one heart we may broaden the heritage of order and of justice. Bring from the humble store of the service of our days some treasure of nobility and worth, that Thy name may be glorified

and that the land may find honor and delight. Increase among the people that affection for the sanctions of law, and that instinctive reverence for public order, which may extend the security and dignity of the State, and may fulfill, in sobriety and equity, the meaning of its Constitution.

To all within this House who bear the confidences and commissions of the people, grant the wisdom to understand and the will to do. If there be any man among us in sickness of body or distress of mind, grant, O God, deliverance and peace and light. Within the homes of all who serve Thee here, bring the tender providences of Thy grace and joy. In these, the days of our labor, and in the last hour, "when the busy world is hushed and the fever of our life is over and our work is done," give us Thy hand, O God, to lead and to sustain! We ask it for Thy love's sake, in Jesus Christ, our Lord. Amen.

Upon a call of the roll, one hundred and forty delegates responded.

MR. WADDELL—I move a suspension of the rules and that we dispense with the regular order, and proceed with the consideration of the report of the Committee on Executive Department.

THE PRESIDENT—The next regular order is the report of the Committee on the Journal. Does the gentleman desire to dispense with that?

MR. WADDELL—No, sir.

The report of the Committee on Journal was read, stating that the Journal for the twenty-fourth day had been examined by the Committee and found to be correct. The report was adopted.

MR. PETTUS—I gave notice yesterday that I would move a reconsideration of the vote by which Section twenty of the report of the Committee on Executive Department was adopted. I now move, Mr. President, to reconsider the vote by which Section twenty was adopted.

MR. JONES (Montgomery)—I rise to a point of order.

THE PRESIDENT—The Chair will state that the motion to reconsider is pending for the consideration of the Convention at the time.

MR. JONES (Montgomery)—I rise to a point of order, Mr. President.

THE PRESIDENT—The gentleman will state the point of order.

MR. JONES (Montgomery) — And that is the gentleman from Limestone is not in a position to make such a motion. He voted as he says himself, and as the record shows, in the affirmative, but the affirmative did not prevail, and as I understand it no one can make a motion to reconsider unless he voted with the prevailing side.

MR. PETTUS—In regard to the point of order. I would like to state to the gentleman from Montgomery that on the final vote for the adoption of the Section I voted in the affirmative and the affirmative won and the Section was adopted.

MR. JONES (Montgomery)—If the gentleman says that is the fact I accept it.

MR. PETTUS—I gave notice of that on yesterday.

THE PRESIDENT—The gentleman gave notice yesterday that he voted with the prevailing side, and that he would move to reconsider.

MR. PETTUS—I have no speech to make on the subject.

THE PRESIDENT — The gentleman from Limestone will suspend a moment.

MR. SANDERS—I ask the gentleman to suspend a moment and ask unanimous consent to introduce a short resolution.

MR. PETTUS—Without yielding the floor, I withdraw for that purpose.

There being no objection, the resolution was read.

Resolution No. 171, by Mr. Sanders of Limestone:

Resolved, That this Convention extend hearty greeting to the Alabama Press Association, now in session in Montgomery, and hereby expresses its appreciation of the efforts which the State press have constantly put forth in behalf of a Constitutional Convention in Alabama. We realize that it is through the instrumentality of the press, county, weekly and daily, that we shall be able to reach the people, and that the future political destiny of Alabama is largely in the hands of the newspapers of the State. We hereby express the hope that the labors of this Convention shall be so characterized by wisdom and courage as to command the unqualified endorsement and support of the press of Alabama.

MR. SANDERS—In order to put that resolution upon its immediate passage, I move a suspension of the rules.

MR. deGRAFFENREID—I second the motion.

MR. BURNS—I have a substitute.

MR. LOMAX—Pending that motion, I rise to a question of privilege.

THE PRESIDENT—The gentleman will state the question of privilege.

MR. LOMAX—Merely for the purpose of having a correction made of a misprint in the proceedings of the twenty-third day. In the ordinance offered by me on the twenty-third day of the Convention in reference to the University, the word "institution" is substituted for the word "instruction," which destroys the sense of the ordinance. I desire to ask that it be corrected, so as to make the ordinance read: "That the Board of Trustees may if they deem proper, for the best interests of said university, abolish the military system of said institution, and reduce said system to a department of instruction, instead of "institution," as it is printed.

MR. GREER (Perry)—I wish to enter an objection to the consideration of the resolution which has just been read. This body yesterday—

THE PRESIDENT—The gentleman will state that the motion to suspend the rules is not debatable.

MR. GREER—I would ask that the Convention allow me just a few words on that.

THE PRESIDENT—The gentleman asks unanimous consent to make a statement to the Convention, is there objection?

Objection was made.

Upon a vote the rules were suspended.

MR. BURNS—I now beg leave to offer my substitute. I was opposed to having the rules suspended, but if they are suspended, I desire to offer a substitute.

Substitute by Mr. Burns of Dallas:

Resolved that this convention recognizes and appreciates the ability, loyalty, and influence of the Press of Alabama. That these champions of free speech and religious liberty in this State are hereby extended the courtesies of the floor.

MR. GREER—Mr. President, I simply wish to state that the same resolutions were offered by me on yesterday, and for this supreme body to rescind its action of yesterday and call it up again today I do not think is right. Now Mr. President, the members of the Press have already been extended the privileges of the offices of the Governor, the Secretary of State, State Treasurer, and other officers. Therefore, inasmuch as this convention acted yesterday on this resolution, I do not believe, that it would

be to the interest of this convention to call up this thing again. Therefore I am not in favor of airing this any more than it has already been aired. While it was received as a matter of levity, the Press Association has taken it seriously, and if we take up this matter now and air it again, by a representative body of 155 men in the State of Alabama, it is a reflection on them. Therefore I move to table both of these resolutions.

THE PRESIDENT—The gentleman moves that the original resolution and the substitute be laid on the table.

MR. PETTUS—I call for a division of the question.

THE PRESIDENT—In the opinion of the Chair the motion relates to both resolutions and there is nothing that is divisible.

MR. JENKINS—I would ask the gentleman from Perry to withdraw the motion a moment.

THE PRESIDENT—The motion of the delegate from Limestone was withdrawn.

MR. PETTUS—I rise to a question of parliamentary inquiry. Is it not possible to have a division, so as to vote on the motion to table the substitute?

THE PRESIDENT—Not if the gentleman makes his motion relate to both. It is optional with him as to the scope he will give his motion.

MR. HEFLIN (Chambers)—I hope that the gentleman from Perry will withdraw his motion. This convention understands the resolution. It is not the purpose or desire of this convention I know to insult the Press of Alabama, and I see no harm in passing the resolution offered here this morning.

The question was put on the motion to table, and the vote taken.

MR. GREER—I demand a yea and nay vote.

MR. WHITE—That is too late Mr. President. I make the point of order that it is too late, as the vote has been announced.

THE PRESIDENT—The result of the vote had not been announced on the viva voce vote. As many as favor the call for an aye and no vote will rise.

The call for an aye and no vote was not sustained by the requisite number rising.

MR. SANDERS—I move to table the substitute.

THE PRESIDENT—The Chair has not announced the result of the vote on the motion made by the gentleman from Perry.

It seems to the Chair that the noes have it; the noes have it, and the convention refuses to lay the resolution upon the table. The gentleman from Limestone moves to lay the substitute upon the table.

MR. DUKE—I ask that the substitute be read.

The substitute was read again.

MR. GREER—I have just learned that the Committee to which that was referred on yesterday is ready to make its report, and we may now take up that report.

THE PRESIDENT—The question is on the motion of the gentleman from Limestone to table the substitute of the gentleman from Dallas.

The motion was carried.

THE PRESIDENT — The question recurs on the original resolution.

MR. BURNETT—I offer an amendment to the resolution.

The amendment was read as follows:

Amend by striking out all after the words "we hereby express the hope."

MR. BURNETT—I do not think that this convention ought to blow its own horn, and therefore I move to strike out all expressing the hope as to what we may do, and let the press and the people consider what we may do, without our expressing any hope, and for that reason I offer the amendment.

A vote being taken, a division was called for.

MR. GREER (During the voting)—I ask that we hear from the committee, to which this was referred on yesterday.

THE PRESIDENT—The report of the Committee is not in order at this time, the Chair will state to the gentleman from Perry.

The amendment of the delegate from Conecuh was lost.

MR. SANDERS—I call for the previous question.

The main question was ordered and upon a further vote the resolution offered by the delegate from Limestone (Mr. Sanders) was adopted.

MR. PETTUS—I have not any lengthy speech to make on this proposition, Mr. President, but in regard to the motion to reconsider the vote by which Section 20 was adopted, I will state I have just been informed that the Committee on Legislative De-

partment will probably report a section making the sessions and elections of the Legislature quadrennial, thus doubling the time for which Representatives are elected at present, and I submit that with that innovation in the Constitution it is a stronger reason why we should no make any member of the Legislature ineligible to appointment to any office in this State, other than the one to which he is elected by the people. I voted, Mr. President, with the Committee on the proposition to make the Governor of the State of Alabama ineligible to the office of United States Senator or to succeed himself, because I realize that perhaps it was wise to go to a certain extent in hedging against the frailty of human nature, and I knew that the office of Governor of the State of Alabama, being the highest in the gift of the State, was sufficient to attract the best talent in the State, for is own sake and for the fame that holding the office would bring to any man. That amendment as reported by the Committee in substance was adopted and the Convention by that Section has removed from the Governor of Alabama the temptation to abuse his power, and the patronage that might be at his disposal in appointing the members in the General Assembly to any office, and since the temptation has been removed from the Governor, if we get a good man, as we shall, in the office of Governor, the only ambition which he can have and from which he can hope to gain any reward is to make a good, clean record in the gubernatorial chair, and while I realize the importance of the independence of the three co-ordinate branches of the State Government, I submit where the Governor is actuated by high and patriotic motives, it is not altogether unwise for him to have some influence in the halls of legislation. I was willing to go with the Committee that far into the land of Eutopia, to make the Governor ineligible to succeed himself and to make him ineligible to the United States Senate. It is a matter of common knowledge that the office of Representative in the General Assembly of Alabama is not an office which is sufficiently attractive in itself or the emoluments of which are sufficiently great—it is not so attractive to the generality of mankind that it is liable to draw the very best talent in the State. It is true, good men have served in the General Assembly, in the past, and will in the future, from motives of patriotism, but in this material age men look to other motives than motives of unselfish patriotism, and I submit if we make the term four years, and absolutely disqualify him during that time, to disqualify him from any office that becomes vacant during his term, it will be a serious drawback to getting good men in the Legislature, and I submit we will not get as good men in the Legislature as we have in the past under such a condition of affairs as that. It will not be a man getting into politics to go to the Legislature, but retiring him from politics, and for these reasons, believing that having removed the temptation from the Governor to abuse his patronage that the influence he will exercise will be entirely salutary I move a reconsideration of the question.

MR. OATES—I desire to consume a few minutes time in calling the attention of the Convention to reasons for the motion made by the delegate from Limestone (Pettus) to reconsider the vote by which the provision in the report of the Executive Department touching this subject was adopted. If a recollect correctly that prohibits the Governor from appointing any member of the General Assembly during his term. What I wish to impress is, that it seems to me that that is too narrow. The provision in the present Constitution—it has been in part subject to abuse, and hence the necessity for amending it — it reads: "No Senator or Representative shall, during the term for which he is elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by election of the people." I confess that this was not perfectly clear to me until studied and discussed, though it has been in the Constitution of Alabama probably ever since we had a Constitution. As I learn the complaints made was in addition to cases that have come before the courts, for instance, the Montgomery case and the Porter case, with which lawyers are all familiar, but later and during the General Assemblies before this last, the then Governor appointed a member to a military office, and some complaint was made about it, and it was supposed that it was really contrary to this provision. If gentlemen will read it they will see it was not, because "military" is not in it, it says "to any civil office which has been created, or the emoluments of which have been increased." Now the amendment which the Committee on Legislative Department deemed necessary to this to operate in the future was simply to incorporate in it after the word civil, "military," "civil or military office of profit." With that amendment in it it seems to me that it is complete and needs no further change. Now let us look further. First, during the term for which a gentleman is elected to the Legislature, in the House, he is ineligible to be appointed either by the action of the General Assembly or by the Governor. For instance, in the Montgomery case, and in the Porter case, too, they were elected by the Legislature of which they were members, the office having been created, and that was, in the language of the Constitution, an appointment.

Now, sir, these last words: "Except such offices as may be filled by election of the people" presents this kind of a case: Suppose the Governor should see proper in the event of the death of a Circuit Judge an office not created by the Legislature of which the gentleman tendered the appointment was a member at all, and the emoluments of that office not increased by that legislature, and the Governor should think that he found among the members a very suitable man to appoint, a judge, for instance to that office. He could appoint him because that is an office filled by an election of the people, and it cannot be said that this gives

the Governor an undue power, or should unduly influence him. If he finds a member of the legislature the best man to fill such an office as that, why deny him that power? It has never been done in the history of the State. This clause has remained all the time, and the only complaint that I have ever heard made about it was in its supposed violation by the appointment of a gentleman to a military office, a member of the legislature, when that was not excluded by the provisions of the Constitution. Now with that amendment, by inserting that word, isn't it wise to retain in the Constitution a clause which has been in it from the beginning or shall this Convention take away from the Governor the right to appoint any member of the legislature to any office? I think it ought to be retained with the amendment, and for these reasons, I am in favor of reconsidering the vote by which this section of the report of the Committee on Executive Department was adopted yesterday and to re-enact. I don't care, although this belongs to the Legislative Department, I care nothing about that, I just as leave it was put in the Executive Department. What I want is to aid what little I can in making a good and proper Constitution and I do not think it necessary to reach out and put in such a sweeping provision as that reported by the Committee and which has been adopted by this Convention, and therefore I am in favor of reconsidering it with a view of re-enacting this provision with that single word of amendment in it.

MR. SENTELL—I hope the members of this Convention will decide to reconsider the vote by which this matter was passed on yesterday. It seems to me that in this matter we have gone too far. To say that members of the legislature shall not be appointed to any office during the entire term for which they have been elected, seems to be going entirely too far. Mr. President, it often happens that a man is elected to the legislature over his protest, he may not desire the place, and yet his people will elect him to the position now, under the present section of the Constitution if he is so elected, although he may resign at once, during the entire term of his office he could not be appointed to any office by the Governor. I am sure that many who voted for this measure have not fully and carefully considered it. Again, Mr. President, it often happens that a member of the legislature may desire an appointment, and that after he has served out his fifty days. Now I can see no reason in the world why he should be prohibited from accepting an appointment to an office after he has served out his fifty days, and there is no reason for their being any influence brought to bear for any improper action.

MR. OATES—I would like to ask my friend—even then he would not be eligible to appointment until the term for which he has been elected has expired.

MR. SENTELL—A case in point has been mentioned to me since we have been discussing this question. The present legis-

lature has served out the fifty days and the members of that legislature are still members for over a year to come, and yet if a vacancy should happen in their County, although every man in the County should petition the Governor for one of those men to be appointed to that place, under the Constitution he could not be appointed. It goes further, it thwarts the will of the people, even if they want it he cannot be appointed by the Governor under this Constitution.

MR. OATES—I think your statement is a little too broad. Isn't it confined to offices which have been created or the emoluments have been increased?

MR. SENTELL—I was referring to the new section that has been adopted. Then there is another consideration. If these extremes are resorted to, if we carry this section to this extreme, I am afraid we will create a disrespect for the Constitution among a great many people of this State. There should be a good reason for making every change, and unless we have a good reason for making a change it seems to me we should retain what we have of the present Constitution, and for these reasons I hope that the members of this Convention will reconsider the Article passed yesterday.

MR. JONES (Montgomery)—Mr. President, in behalf of the Committee, I desire to say a few words. The only new argument which has been made is one based on a supposition as to what the Committee on Legislative Department will recommend, and the argument presupposes that the Convention will adopt it. It presupposes that we are going to make members of the legislature for four years, and not for two years. It is with great reluctance that I venture to differ on any question, from the policy put forth by the Committee on Legislative Department; but I do not think I am a bold prophet in saying this Convention will elect members of the legislature for four years instead of two years.

All the arguments that have been made, if you run through them to a logical end, come to this proposition, that there might be some hard cases and therefore the people ought never to limit themselves. This principle of "lead us not into temptation," is not put forth for the first time in this section. It comes from much higher and mightier sources. It may surprise some members to know that as far back as 1819 our forefathers declared in express words against a third term, for the Governor of Alabama. They said that he should not serve more than four years in any six years. Yesterday my good friends from Bibb, and my good friend from Dallas, in a gentle way, rather lectured me for raking up the embers of past political bitterness. My offense, Mr. President, was that I stated truly notorious and open facts in the history of this State. My God, Mr. President, has it come to such a pass that a member of this Convention cannot allude to an

historical fact, that is true, without being charged with digging up the embers of some buried strife? I trust that in the illustrations in support of propositions of the committee, I have tempered my words with deliberation, and that I have not set down aught in malice; but there are times when we must call a spade a spade. Now my distinguished friend from Montgomery (Mr. Oates) said that he never heard of but one objection, instance of the appointing power in this respect, and at the risk of bringing down upon my head some more censure, I will tell him that it was in my mind, and in the minds of thousands of people in Alabama that in a session of the Legislature in the not very remote past, that an Executive appointed three members, for the first time in the history of the State, from the floor of the two Houses.

MR. OATES—I want to disclaim that I ever did propose to bring down anything upon the head of my friend, the delegate from Montgomery.

MR. JONES—I had no reference in the world to my friend —and I mean it when I use the word friend—I had no reference to him. I make no complaint because the gentlemen who gave the lecture were my friends. I merely say it was not well founded. The whole question, Mr. President, is this: We have already said that the Governor was human; that he might be tempted by the possession of certain powers to do things that were not for the good of the State. The committee were not dealing with the Governor's office alone, we were trying conscientiously it may be mistakenly, to reach human nature wherever we found it. Don't we all know that the independence of members of the General Assembly is often entirely killed by the consideration they think some office is in sight, and by supporting the measures of the Executive—it may be against their better judgment—they may ingratiate themselves in his favor, and thereby secure an office? Don't we all know it? Now it is said, Mr. President, that good men will not go to the Legislature of Alabama if you shut them out, not from all offices, but from all appointments by the Governor for the term of two years. They say it is hard enough now to get good men. Mr. President, I do not fall in with the general censure of Legislatures. I never saw one that was quite as black as it was painted. I have seen assemblies made up individually of men for a majority of whom I had the most profound respect, yet when they got under this, the subtle influence, the hypnotism of the appointing power, they did things which almost universally met with disapproval. I venture to make this suggestion: There will be less difficulty in getting good men to go to the Legislature when the scramble for the office ceases, and when it is not confined to men who want to go there because it may give them a leverage on the office of Probate Judge or Solicitor or something else. I may be pardoned for repeating a conversation, which illustrates the position which I maintain, with

one of the greatest jurists that ever adorned the Bench of Alabama or elsewhere in this Union—Chief Justice George W. Stone. In the bitterness which prevailed at times in 1892, some of us thought perhaps if we could remove from the field of strife the two candidates whose claims then engrossed the attention of the people of Alabama, it might tend to the public good. With that purpose I was in hearty sympathy. I had the honor to call on Judge George W. Stone for we believed if that great and good man could be induced to take the office of Governor that perhaps it would save much bitterness and strife which we desired to avert. He turned to me—because he regarded me rather as a son than a grown man—and said: "My son, do you forget the Constitution of the State?" I said I had overlooked it. Read this—and he pointed out the section in the Constitution which made a Judge ineligible for any other than a judicial office during the term for which he was elected. I remarked that in this instance, at least, it was a misfortune that there was such a provision in the Constitution, and I shall always remember his answer: "No, sir; it is a wise provision. It has done more to elevate the bench in Alabama and in other States where there is such a provision, than all the other causes combined, because it removes those who have the judicial power from temptation." Now we say, Mr. President, remove those who have the legislative power from temptation. Let them come up here to legislate solely for the good of Alabama. If they do that, and are "disfranchised," as they call it, for two years, the plaudits of the people will await them for unselfish service; and in the end they will be thrice repaid for the temporary disfranchisement. The people seldom fail to promote a faithful and unselfish public servant. These are the reasons, Mr. President, why the committee felt compelled to urge upon this House that the section as adopted stand.

MR. GRAHAM (Talladega)—For the first time, Mr. President, in the discussion of questions before this body, I beg the indulgence of the Convention for a few words against reconsideration of this proposition. I think that I can mention one fact which has been overlooked by the members of this Convention. When a man becomes a candidate for the Legislature and is elected by the people, there is an implied contract of employment and service, and the member of the Legislature has no right upon his part to break that contract and to enter other employment, except by the wishes and the will of the people. Gentlemen of the Convention, when a member of the Legislature is appointed from his position to some higher office, at that time he leaves his people without a representative in the General Assembly, and there can be no successor under the present Constitution, except by an election of the people, and at great expense to the people. I want to say further, Mr. President, that it is a violation of good faith as between employer and employe. If a man comes to the Legislature sorely for the purpose that he may reach some high-

er position, he ought to put his people on notice before he comes, that they may seek out some one that will stay with them and serve them through the time for which they elect him. If I may be pardoned the expression, I believe that a member of the Legislature should, for the time being, take down his lightning-rod. If he does not care to do it, then let him stay at home and keep it up with the hope that he may receive some appointment to a higher position. It is not merely between the Governor and the members of the Legislature—I waive that point as having been sufficiently and earnestly urged, and rely solely upon the question of good faith between the representative and the people who have elected him. I do not lay any stress upon the point raised by the gentleman from Crenshaw (Mr. Sentell) of conscripting members for the Legislature. There has not been many in the past; there are not likely to be many in the future; take away the hope of reward, and the hope of promotion by appointment, and let a man become a candidate for the Legislature solely upon the proposition that he is the man that the people want, and that he is a man loyal and patriotic enough to stay by the post to which he has been called and render the people patriotic and honorable service, based upon the hope of approval by his constituency at home, and not upon the hope that he may be appointed to some higher position. I hope that this Convention will refuse to reconsider what I think to be one of its best acts since it has been in session.

MR. REESE—The stenographic report of yesterday's proceedings correctly shows, I suppose, some remarks made on the floor, which might be construed as a reflection upon the ability and work of my distinguished colleagues from Dallas. These remarks were made by me. I did not mean to say that Dallas had not selected her delegates from among her most able and trusted sons. These gentlemen have, in the highest degree, the trust and the confidence of their people, and our people have gladly availed themselves of their services whenever offered.

Mr. President, I feel hurt that my distinguished friend from Montgomery should have thought that I endeavored to lecture him. Why, my admiration and affection for the gentleman would have precluded such a course, and I candidly say that while the remarks were being made the gentleman was not in my mind at all. I feel sorry for it, because I appreciate and admire the gentleman too much to criticise anything that he should say.

MR. JONES (Montgomery)—I have only to say that I take no offense at the criticism, and I am sorry if my friend from Dallas thought I displayed any heat. There is no man on the floor for whose good opinion I have greater regard.

MR. O'NEAL (Lauderdale)—No gentleman who has advocated a reconsideration of this Section, has contended that the

effect of the Section as already adopted, is not to increase the independence of the Legislative Department in this State. It has been argued that this is a novel proposition. I deny that statement. It has precedent in some of the greatest States in the Union. The great imperial State of New York has a provision in its Constitution, more far reaching in effect than the one proposed by the Committee on Executive Department. I will read that provision to the Convention. Section 7 of the Constitution of New York provides as follows: "No member of the Legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, or from any City Government, during the time for which he shall have been elected; and all such appointments, and all votes given for any such member for any such office or appointment shall be void."

MR. PETTUS—I would like to ask the gentleman from Lauderdale a question.

MR. O'NEAL—Certainly.

MR. PETTUS—For information. Do you know how much the Representative in the General Assembly of the State of New York are paid for their service as such officers?

MR. O'NEAL—I think about $1,500 a year. The same provision, Mr. President, can be found in the Constitutions of California, Georgia, Missouri, Montana, Nebraska and Pennsylvania. The gentleman from Limestone, who advocates a reconsideration, contends that under the present system we do not secure the election of the ablest and best men in the State to the Legislative Department of the Government. Mr. President, we are bound to recognize the fact that the Legislature is largely composed of ambitious young men who are seeking a political preferment and political promotion at the hands of the Executive of the State. Remove this temptation, and the result will be that you will elevate the tone of the Legislative Department and increase its independence.

The paramount purpose of this Convention is to purify and elevate the political conditions in Alabama. One of the cardinal principles of our Government, upon which our institutions are founded, is that there should be an entire separation between the three great departments of Government. The greatest man produced during the period of the revolution, who contributed to the Federal list, Mr. Hamilton, and who is regarded by many as the greatest intellect of that period, said on that subject: "No political truth is of greater political value, or is stamped with the authority of the more enlightened patrons of liberty, than that on which this objection is founded; the accumulation of all power, legislative, executive, and judiciary, in the same hands, whether

of one, or a few, or many, and whether hereditary, self-appointive, or elective, may justly be pronounced the very definition of tyranny. The preservation of liberty requires that the three great departments of power should be separate and distinct. Said Montesquee, 'there can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates.'"

The purpose of this provision then is to prevent the Executive from dominating and controlling the Legislative Department of the Government by reason of his appointing power, and in accomplishing that we will take a step forward, in a movement of reform which has the approbation and sanction of the people of Alabama, and of the enlightened judgment of this Republic.

MR. PETTUS—I have the profoundest respect for the ability and learning of the distinguished gentleman from Lauderdale, but I am surprised to see this gentleman speaking so eloquently for the independence of the three co-ordinate departments of State government today, when I understand him to support so ably the report of the Committee on yesterday or the day before, authorizing the Governor to propose amendments to bills on the floor of the House.

MR. O'NEAL—I opposed that.

MR. PETTUS—I beg the gentleman's pardon; I was under a misapprehension of the facts.

MR. O'NEAL—I opposed it bitterly.

MR. PETTUS—While I recognize the ability of the distinguished authority from which he quotes, I am not willing yet to accept all of the theories of republican government from the hands of Alexander Hamilton.

Now, Mr. President, I stated briefly in the beginning, why I move for a reconsideration of the vote by which this section was adopted. Examples have been cited here of other States, which have such or similar provisions in their constitutions, making the members of their legislatures ineligible to appointment to any office, but the gentleman himself answered, when I asked him the question, that in those States they are able to pay, and do pay their representatives salaries, that make the offices of members of the legislature sufficient to attract men for the sake of their own emoluments. The very fact, Mr. President, that in the State of Alabama members of the legislature are paid such meagre salaries, the very fact that perhaps if they were to get a little more—

MR. ROGERS (Sumter)—I would like to ask what the pay of legislators in Georgia is?

MR. PETTUS—I am not informed as to what the legislators in Georgia get, but the gentleman stated that the State of New York and the State of Pennsylvania, among others, paid their representatives fifteen hundred dollars a year, and in this section which he read from the Constitution of New York, it makes it unlawful and void for a representative to barter away his vote for any office, which is in the nature of bribery, and certainly any delegate would oppose bribery on the part of any member in the legislature.

MR. O'NEAL—Will the gentleman permit a question?

MR. PETTUS—Certainly.

MR. O'NEAL—Does he contend that in the States of California, Georgia, Montana, Missouri and Nebraska, which have similar provisions, that they are paid any larger amounts than in the State of Alabama?

MR. PETTUS—I am not informed.

MR. O'NEAL—My information is that the pay in nearly all of those States is five dollars per day.

MR. PETTUS—That is certainly more than it is in Alabama, and if they only pay their members five dollars a day and disfranchise them from holding any office, and make them ineligible to appointment, I must say it is unwise in those Constitutions and is an example that we should avoid, rather than one we should follow.

Now, as stated in the beginning, the principal reason why I oppose making Representatives ineligible to appointment to any office, other than those which they create in the General Assembly, or help to create, during their term, is because the temptation has been removed from the Chief Executive to abuse his patronage, and it is because I believe it is unjust under some circumstances to defeat the will of the people. I might give a simple illustration. Suppose a man, as was so eloquently said by the gentleman from Talladega, is elected unanimously by his people to serve them on the floor of the General Assembly of Alabama. Suppose during his term of office a vacancy occurs in some County office, for example in the office of Probate Judge, and suppose it is the unanimous desire of the people of that County that he be appointed to fill that office. Under this section of the Constitution as reported by the Committee, he would be ineligible, and it would not be within the power of the Governor to comply with the wishes, and with a unanimous demand on the part of the people of that County, to appoint the representatives to that office.

Now, the distinguished gentleman from Montgomery, the Chairman of the Committee, has quoted as an illustration and analagous case, the example of the Chief Justice or some Supreme

Judge in this State, being ineligible to hold any office, but I submit, Mr. President, that the office of judge in this State is one that is sufficiently attractive, like the office of Governor, to draw the very best men to serve the people upon the bench, although they are disqualified during that time from holding any other office, and the distinction I make is that the office of representative in the General Assembly is not sufficiently attractive in itself to draw men to serve the people in that capacity, to the great detriment of their private business, in this material age.

MR. ROGERS (Sumter)—Will the gentleman permit me to ask a question?

MR. PETTUS—Certainly; will be delighted to hear the question.

MR. ROGERS (Sumter)—Does the Convention understand that if the office of legislator was a pay office, one where the salary justified it, you would be in favor of his not being appointed to something else.

MR. PETTUS—I do not know what the Convention understands as to that proposition.

MR. ROGERS (Sumter)—I want to know what you think about it.

MR. PETTUS—I will state, Mr. President, that if it were true that representatives in this State were paid a salary of fifteen hundred dollars a year, and the State were able to pay them that salary, that might put a different phase upon the situation.

Now, Mr. President, I think that this question has been sufficiently discussed and I call for the previous question on the motion to reconsider.

MR. deGRAFFENREID—We ask for an aye and no vote.

MR. PETTUS—I rise to a point of inquiry.

THE PRESIDENT—The gentleman will state the point of inquiry.

MR. PETTUS—The question was whether or not the previous question was ordered. Do I understand we are having an aye and no vote on the call for the previous question?

THE PRESIDENT—That is the understanding of the Chair. In the opinion of the Chair a delegate may call for an aye and no vote on any question, if it is called for in time.

MR. deGRAFFENREID—I withdraw my call for the time being.

A vote being taken the previous question was ordered.

MR. deGRAFFENREID—Now I renew the call for the ayes and noes.

THE PRESIDENT—The question is upon the motion to reconsider, and upon that the gentleman from Hale calls for an aye and no vote. Is the call sustained?

The call was sustained by a sufficient number of delegates rising.

MR. ROGERS (Sumter)—If I am in order, I move to lay the motion of the gentleman from Limestone to reconsider on the table.

THE PRESIDENT—The previous question has been ordered, and a call for an aye and no vote has been sustained. The question is on the motion to reconsider. Those in favor of reconsideration will vote aye, as their names are called, and those opposed, will vote no.

During the call of the roll:

MR. BOONE—Mr. President I would vote aye, but I am paired with Dr. Cunningham, the delegate from Jefferson, who would vote no.

MR. ASHCRAFT—When my name was called I forgot that I was paired with the gentleman from Colbert, Mr. Carmichael, and if he were here he would vote no, and I would vote aye, and I forgot to mention it at the time my name was called.

Mr. Ashcraft's vote which had been recorded, was erased from the roll.

MR. PILLANS—I would vote no, if I were not paired, but I am paired with Mr. Willet of Pickens, who would vote aye.

The vote resulted as follows:

AYES

Messrs. President,
Almon,
Bartlett,
Brooks,
Browne,
Bulger,
Burnett,
Burns,
Byars,
Cardon,
Carmichael, of Colbert,
Carnathon,
Case,
Cornwall,
Davis, of Etowah,
Eley,
Foshee,
Foster,
Freeman,
Graham, of Montgomery,
Grayson,
Greer, of Calhoun,
Haley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Hood,
Jackson,
Jenkins,
Knight,
Kyle,
Ledbetter,
Long, of Butler,
Long, of Walker,
McMillan (Wilcox),
Miller (Marengo),
Moody,
Murphree,

NeSmith,
Oates,
O'Neill, of Jefferson,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Pitts,
Proctor,
Reese,
Renfroe,
Reynolds (Chilton),
Rogers (Lowndes),
Sanders,
Searcy,
Sentell,
Sloan,
Smith (Mobile),
Sorrell,
Studdard,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weatherly,
Whiteside,
Williams (Elmore),
Wilson (Clarke),
Wilson (Washington),

TOTAL—70.

NOES

Banks,
Barefield,
Beddow,
Bethune,
Blackwell,
Chapman,
Cobb,
Cofer,
Coleman, of Greene,
Craig,
Davis, of DeKalb,
Dent,
deGraffenreid,
Duke,
Espy,
Fletcher,
Gilmore,
Glover,
Graham, of Talladega,
Handley,
Henderson,
Hodges,
Howell,
Howze,
Inge,
Jones, of Bibb,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Leigh,
Locklin,
Macdonald,
McMillan, of Baldwin,
Malone,
Martin,
Maxwell,
Merrill,
Miller (Wilcox),
Morrisette,
Mulkey,
Norman,
Norwood,
O'Neal (Lauderdale),
Opp,
Phillips,
Reynolds, of Henry,
Robinson,
Rogers (Sumter),
Samford,
Sanford,
Selheimer,
Smith, Mac. A.,
Smith, Morgan M.,
Spears,
Spragins,
Stewart,
Tayloe,
Weakley,
White,
Williams (Barbour),
Williams (Marengo),
Winn,

TOTAL—63.

ABSENT OR NOT VOTING

Ashcraft,
Beavers,
Cunningham,
Ferguson,
Grant,
Greer, of Perry,
Kirkland,
Lowe, of Jefferson,
Lowe, of Lawrence,
Porter,
Altman,
Boone,
Carmichael, of Colbert,
O'Rear,
Pillans,
Willet,
Coleman, of Walker,
Eyster,
Fitts,
Lomax,
King,
Sollie,

MR. PETTUS—I move to lay Section 20 on the table.

MR. O'NEAL (Lauderdale)—I call for an aye and nay vote on that motion.

The call for the ayes and noes was sustained.

MR. PETTUS—I would like to state for the information of the Convention, that the Legislative Committee are preparing an ordinance to meet this question. The Committee on Legislative Department are preparing to report an ordinance similar to this, to meet what this ordinance was intended to meet. It properly belongs to the Legislative Department.

Upon the call of the roll, the vote resulted as follows:

AYES

Messrs. President,
Almon,
Bartlett,
Brooks,
Browne,
Bulger,
Burnett,
Burns,
Byars,
Cardon,
Carmichael, of Colbert,
Carnathon,
Case,
Cornwall,
Davis, of Etowah,
deGraffenreid,
Eley,
Foshee,
Foster,
Freeman,
Graham, of Montgomery,
Grayson,
Greer, of Calhoun,
Haley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Hood,
Jackson,
Jenkins,
Knight,
Kyle,
Ledbetter,
Long, of Butler,
Long, of Walker,
McMillan, of Wilcox,
Martin,
Miller, of Marengo,
Moody,
NeSmith,
Oates,
O'Neill (Jefferson),
O'Rear,
Palmer,
Parker, of Cullman,
Parker, of Elmore,
Pearce,
Pettus,
Pillans,
Pitts,
Porter,
Proctor,
Reese,
Renfro,
Reynolds, of Chilton,
Rogers, of Lowndes,
Sanders,
Searcy,
Sentell,
Sloan,
Sorrell,
Studdard,
Thompson,
Waddell,
Watts,
Weatherly,
Whiteside,
Wilson, of Clarke,
Wilson, of Washington,

TOTAL—70.

NOES

Banks,
Barefield,
Beddow,
Bethune,
Blackwell,
Chapman,
Cobb,
Cofer,
Coleman, of Greene,
Craig,
Davis, of DeKalb,
Dent,
Duke,
Espy,
Fletcher,
Gilmore,
Glover,
Graham, of Talladega,
Grant,
Handley,
Henderson,
Hodges,
Howell,
Howze,

Inge,
Jones, of Bibb,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Leigh,
Locklin,
McMillan (Baldwin),
MacDonald,
Malone,
Maxwell,
Merrill,
Miller, of Wilcox,
Morrisette,
Mulkey,
Murphree,
Norwood,
O'Neal, of Lauderdale,
Opp,
Phillips,
Reynolds (Henry),
Robinson,
Rogers, of Sumter,
Samford,
Sanford,
Selheimer,
Smith, of Mobile,
Smith, Mac A.,
Smith, Morgan M.,
Spears,
Stewart,
Tayloe,
Vaughan,
Walker,
Weakley,
White,
Williams, of Barbour,
Williams, of Marengo,
Winn,

TOTAL—65.

ABSENT OR NOT VOTING

Altman,
Willet,
Williams, of Elmore,
Ashcraft,
Beavers,
Boone,
Cunningham,
Ferguson,
Greer, of Perry,
Kirkland,
Lowe, of Jefferson,
Lowe, of Lawrence,
Norman,
Spragins,
Carmichael, of Colbert,
Coleman, of Colbert,
Coleman, of Walker,
Eyster,
King,
Lomax,
Fitts,
Sollie.

MR. deGRAFFENREID—I give notice that I shall make a motion in the morning to reconsider this vote by which this section was laid on the table.

MR. OATES—I now move to reconsider this vote and then move to lay that motion on the table.

MR. WILSON (Clarke)—I rise to a point of order. Under Rule *27* a motion to lay on the table cannot be reconsidered.

MR. deGRAFFENREID—The motion has not been made. I give notice that I shall make the motion in the morning.

THE PRESIDENT—The point of order is well taken. The gentleman from Montgomery made the motion to lay on the table and with the same object, but the motion to lay on the table under Rule *27* cannot be reconsidered.

MR. OATES—That is the universal parliamentary practice to clinch a thing, to move to reconsider and move to lay that on the table.

THE PRESIDENT—That is the practice in Congress, but under our rules that has been changed.

MR. SANDERS—I now move the adoption of the substitute offered by me on yesterday for the report of the committee. The substitute disqualifying the holding of office on the part of the General Assembly where the office was created during the term for which they were elected or where the emoluments were increased during their term.

MR. WADDELL—I rise to a point of order.

THE PRESIDENT—State the point.

MR. WADDELL—We are now considering the sections of this article generally and we cannot consider them until they come up in their regular order.

THE PRESIDENT—The point is well taken.

MR. FLETCHER—I desire to make a report from the Committee on Banks and Banking. It is a short report.

THE PRESIDENT — The gentleman from Madison asks unanimous consent to send up a report from the Committee on Banks and Banking. Is there objection? The Chair hears none and the gentleman will send up the report.

MR. SAMFORD—I move that the reading of the report be dispensed with.

It will be printed and put upon the desks of every member in the morning.

MR. BROOKS — I would ask the gentleman to withdraw that motion a moment merely to enable me to say that the report of the committee is very brief and it is well to have it read so that members can think over it.

MR. SAMFORD—If anybody wants to hear it, let it be read.

The report was read as follows:

Report of the Committee on Banks and Banking:

Mr. President:

The Committee on Banks and Banking have instructed me to make the following report, viz:

That they have examined all the ordinances and resolutions submitted to them, and without passing upon them separately will say they have embraced the substance of some of them in the article herewith submitted.

That they have adopted the entire subdivision on banks and banking as it appears in Article XIV of the Constitution with Section 8 added.

A. S. Fletcher,

Chairman on Banks and Banking.

ARTICLE XIV

Section 1—Sub. Div. Banks and Banking. The General Assembly shall not have the power to establish or incorporate any bank or banking company or money institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this Constitution.

Sec. 2—No bank shall be established otherwise than under a general banking law, nor otherwise than upon a specie basis.

Sec. 3—All bills or notes issued as money shall be at all times redeemable in gold or silver, and no law shall be passed sanctioning directly or indirectly the suspension of any bank or banking company or specie payment.

Sec. 4—Holders of bank notes and depositors who have not stipulated for interest shall, for such notes and deposits, be entitled in case of insolvency to the preference of payment over all other creditors.

Sec. 5—Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization (unless the General Assembly shall extend the time) and promptly thereafter close its business; but shall have corporate capacity to sue and shall be liable to suits until its affairs and liabilities are fully closed.

Sec. 6—No banks shall receive directly or indirectly a greater rate of interest than shall be allowed by law to individuals for lending money.

Sec. 7—The State shall not be a stockholder in any bank nor the credit of the State ever be given, or loaned, to any banking company, association or corporation.

Sec. 8 — The General Assembly shall be appropriate laws, provide for the examination by some public officer of all banks and banking institutions and trust companies engaged in banking business in this State.

MR. SAMFORD—That is printed without motion.

THE PRESIDENT—Under the rule, it lies over one day and will be printed.

MR. SAMFORD—If I recollect, the continuing order was the consideration of the clause in the Article on Executive Department, touching the great seal of Alabama.

MR. JONES (Montgomery)—Will the gentleman yield so that I can make a further report from the Committee on Executive Department?

MR. SAMFORD—Does it relate to the real?

MR. JONES (Montgomery)—No, sir.

MR. SAMFORD—Then won't you wait until I get through? Although if you insist on it, I will yield.

MR. JONES (Montgomery)—No, I won't insist.

MR. SAMFORD—Then on the pending matter, I demand the previous question.

MR. LONG (Walker)—I make the point there is nothing before the House, and the gentleman is not in order.

THE PRESIDENT—The question before the House is Section 22, reported with a substitute, and there is an amendment offered to the substitute by the gentleman from Chambers, which was read just as the Convention adjourned, and the question will be on the amendment of the delegate from Chambers.

MR. BOONE—I move to table both substitute and amendment.

THE PRESIDENT—The gentleman from Pike moves the previous question.

MR. SAMFORD—Yes, my object was to get a vote.

THE PRESIDENT—And the gentleman from Mobile moves to table the substitute and amendment.

MR. LONG (Walker)—I make the point of order that the gentleman from Pike was out of order because at that time there was nothing before the House

THE PRESIDENT—The point of order is not well taken. The question had been stated when the House adjourned yesterday afternoon.

MR. LONG (Walker)—What is before the House now?

THE PRESIDENT—The motion of the gentleman from Mobile to table the substitute offered for Section 22, and the amendment offered thereto by the delegate from Chambers.

MR. LONG (Walker)—Does that carry with it the report of the committee?

THE PRESIDENT—It carries with it the substitute reported by the committee, and the amendment of the delegate from Chambers.

MR. LONG (Walker)—I want to know if it includes the woman on horseback.

THE PRESIDENT—It includes the substitute offered by the committee and also the amendment of the delegate from Chambers.

MR. PETTUS—I rise to a question of inquiry. I understood the motion is to table the amendment offered by the delegate from Chambers and the substitute. What is the substitute?

THE PRESIDENT—The substitute is the woman on horseback.

MR. BROWNE—I call for a division of the question. There may be members who desire to lay the amendment on the table who don't desire to lay the substitute.

THE PRESIDENT—That would address itself as a matter of propriety to the gentleman making the motion, but when he moves to table both the amendment and the substitute, there is nothing to divide. Any member can move to table a substitute and amendments, and the original section if he desires. The question is on the motion of the gentleman from Mobile to table.

MR. HEFLIN (Chambers)—If that is the amendment offered by the gentleman from Montgomery and the substitute of the gentleman from Chambers, I call for an aye and no vote on it.

MR. SANFORD—What the committee offered was a substitute for the present seal and the gentleman from Chambers offered to amend that by putting an Indian in the seal.

THE PRESIDENT—The chair understands that the Committee on Executive Department reported a resolution offered by the gentleman from Montgomery with a substitute. Thereupon, the gentleman from Chambers moved to amend by substituting the form of seal indicated in his amendment, and now the gentleman from Mobile moves to table both the amendment offered by the gentleman from Chambers and the substitute reported by the committee.

MR. HEFLIN (Chambers)—Do I understand that if this motion is carried, the amendment of the delegate from Montgomery will not go to the table?

THE PRESIDENT—You cannot understand that, for it has been stated exactly to the contrary.

MR. PETTUS—I rise to a question of inquiry. The delegate from Talladega moved for a division of the question, and I would like to read Rule 37 on that: "Any delegate can call for a division of the question when the sense will admit it." There is a proposition here offered in the shape of a substitute for the

committee's report and an amendment to it by the delegate from Chambers. There are delegates who would like to table the amendment of the delegate from Chambers who would not like to table the substitute of the gentleman from Montgomery, (Mr. Sanford).

THE PRESIDENT—It is not in the power of the Chair to divide the motion made by the gentleman from Mobile. He makes his motion to table both the amendment and the substitute, and the question is shall the call for the yeas and nays be sustained?

The call is not sustained.

A vote being taken on a division there were 65 yeas and 55 nays.

So the motion to table prevailed.

MR. JONES (Montgomery)—I now ask unanimous consent for the Committee on Executive Department to report a Section which was recommitted to it and also on a resolution.

THE PRESIDENT — The gentleman from Limestone has the floor—I beg pardon, I mean the gentleman from Madison. The Chair will state that the gentleman from Limestone has been so much in the mind of the Chair this morning that the Chair inadvertently made the remark.

Mr. Spragins offered a substitute for Section 22 as follows: "Typical of the resources of the State of Alabama, the Great Seal of the State which shall be used officially by the Governor shall be the old seal used until 1875 with addition to indicate the mineral as well as the agricultural resources of the State, its rugged mountains, fertile plains, and beautiful rivers, and that the Legislature shall name a Commission to design said seal on these lines and when approved by the Legislature it shall be the Great Seal of the State of Alabama.

MR. O'NEAL—I move to lay that on the table.

A vote being taken the substitute was table.

MR. deGRAFFENREID—I move the adoption of the Section first reported by the Committee, and upon that I move the previous question.

A vote being taken the main question was ordered.

THE PRESIDENT—The question is upon the adoption of Section 22.

MR. SANFORD—Upon that I call for the ayes and noes.

THE PRESIDENT — And upon that the gentleman from Montgomery calls for the ayes and noes, and the question is shall

the call be sustained. The call is not sustained and the question is on the motion of the delegate from Hale to adopt the Section as reported by the Committee.

MR. SANFORD—I hope the Convention will not adopt it.

MR. deGRAFFENREID — The gentleman is not in order. The main question had been ordered.

MR. SANFORD—I had not heard that the previous question had been ordered.

MR. LOMAX—Pending the motion to adopt the Section, I move to take from the table the substitute reported by the Committee, offered by the gentleman from Montgomery.

MR. deGRAFFENREID—I make the point of order that that motion cannot be entertained, the previous question having been offered.

THE PRESIDENT—In the opinion of the Chair as the previous question has been ordered a motion to take from the table the substitute would not be in order.

MR. LOMAX — Will the Chair listen to the reading of a rule: "Rule 25—When a Section is before the Convention motions may be received in the following order: (1) To fix the time to which the Convention shall adjourn. (2) To adjourn. (3) To lay on the table." So a motion to lay on the table has precedence of a motion for a previous question under the rules.

MR. deGRAFFENREID—But not a motion to take from the table.

MR. LOMAX—I submit that a motion to take from the table is a motion of equally high privilege as a motion to lay on the table; and, consequently, if a motion to lay on the table has precedence, a motion to take from the table has equal precedence.

THE PRESIDENT—What is the rule to which the gentleman refers?

MR. LOMAX—Rule 25. I make that as a parliamentary inquiry.

MR. BROOKS—The point of order made by the gentleman from Montgomery might be good if we had not already ordered the main question. It is not now in order to make the motion he suggests after the main question is ordered.

THE PRESIDENT—After the main question is ordered, it is not then, in the opinion of the Chair, in order to move to take from the table a resolution that has been laid on the table by the Convention. Under our rules a motion to adjourn has precedence of a motion for the previous question, but under our rules that

would not be in order after the previous question had been ordered. Rule 26 says: "A motion to adjourn shall always be in order, even in the absence of a quorum, except when on a call for the previous question, the main question shall have been ordered.

MR. CARMICHAEL (Coffee)—I rise to a point of inquiry. On the adoption of this Section if the previous question is ordered, has not the Chairman of the Committee, or some member designated by him the right to close even though the main question has been ordered? I make this at the instance of the delegate from Montgomery.

THE PRESIDENT—The Chair did not understand that the gentleman from Montgomery yielded to anyone.

MR. JONES (Montgomery) — I will yield to the delegate from Montgomery (Mr. Sanford) on this matter.

THE PRESIDENT—In the opinion of the Chair the Chairman of the Committee would have a right to yield his time.

MR. LONG (Walker)—I make the point of order that the Chairman of the Committee has reported an entirely different subject, he has opened and closed on that—

MR. JONES (Montgomery)—The gentleman is mistaken. I have not opened my lips on this question, but I do want to hear my gallant, chivalrous and gray-headed old soldier friends, whose heart is in this thing and I am going to yield to him.

MR. PILLANS—Insisting upon a point made in the interest of the conduct of business in an orderly way and the cutting off of debate on a matter that has already been fully debated, I insist that the Chair shall not extend the rule beyond the strict letter of the rule. Under the letter of the rule debate is cut off except the Chairman of the Committee shall close debate. It was not claimed by the Chairman until a suggestion was made and then the Chairman turns over to another member the right to close the debate and I object to that.

THE PRESIDENT—The Chair cannot recall the language of the rule just at this time, but the rule provides in the recollection of the Chair that the gentleman may yield his time and that is the universal practice, so that it is not in the power of the Chair to deny to a gentleman the right to yield his time.

MR. LONG—Before you make your ruling I would like to inquire if the gentleman from Montgomery (Mr. Jones) did not yield his time to the gentleman from Montgomery (Mr. Sanford) on this matter?

MR. JONES (Montgomery)—I yielded on an entirely different proposition, on the substitute, which has been laid on the table, and is not before the House.

THE PRESIDENT—Will the gentleman from Montgomery allow the Chair to rule on the question presented by the delegate from Walker. The gentleman from Montgomery had a right to discuss this in the opening and he yielded to the delegate from Montgomery, Mr. Sanford. The Chairman also has a right to close the discussion and he yields that time to Mr. Sanford. The previous question having been ordered, the gentleman has the right to conclude. Under Rule 17, the Chairman of the Committee has a right to close the debate after the previous question is ordered. The Chairman of the Committee or the mover of a proposition notwithstanding the main question has been ordered, has under Rule 17 thirty minutes to conclude the debate and the Chair recognizes the gentleman from Montgomery, Mr. Sanford.

MR. SANFORD—Mr. President, the present Constitution of the State of Alabama, adopted no seal in 1875, except provisionally we will use the present seal, until the General Assembly shall change it. Evidently that Convention contemplated a change, and an early change, from a figure that represented nothing in Alabama. It is simply a bunch of feathers, that is abhorent to a great many of the people of this State. It does not show anything of the characteristics of Alabama, either with regard to its topography, its history, or the character of its people. The bird that it represents, as was said yesterday, is a bird of prey. Its habitat is all over the American continent; it represents nothing peculiar to the State, and it has this distinction, that it is one of ten other States which has an eagle, or an eagle and some combination with other figures, as the seal of a great commonwealth. That itself is objectionable. Mississippi has the eagle, Illinois has the eagle, foreign states have the eagle, Equador, Bolivia and Austria has an eagle with two heads, Russia has an eagle with two heads, to show that it preys doubly as much as any other nation upon the liberties of her people. I can see no reason why Alabama should adopt this particular insignia or emblem for its great seal, by which the people of Alabama make known its will and its power. I hope that this will not be adopted as the seal of the State of Alabama, not even provisionally, as the report of the Executive Committee suggested, until it shall be changed. If it be until it shall be changed, that contemplates that it shall not be permanent. If it be not permanent, why not change it by this Convention? It has ample power; more power than any Assembly that will meet again possibly in twenty-five years. We come from the people recently, and while this particular question was not debated, it was as much within the possibilities that the seal would be changed, as that many other provisions in the present Constitution would be altered, and I can see no reason why

we should adopt this. Therefore, Mr. President, if I shall be in order, and I ask for information, I would move that this section of the report be defeated, and that a committee be designated for the purpose of suggesting a design for a Great Seal.

Why do you want this? I have heard no reason given for it. The committee reported it first or contemplated its report to it as a matter of course. The Convention of 1875 did it merely as a matter of course passing it on, and putting it there provisionally. Therefore I hope that the convention will not adopt the suggestion made by the Committee on Executive Department.

THE PRESIDENT—The question is on the motion to adopt the section reported by the committee.

A division was called for.

MR. BROOKS—Mr. President, I request that I be recorded as voting for it. I was out of the hall when the vote was taken.

MR. BROWNE—I make the point of order that it is too late for a delegate to vote on a division, after the vote has been taken, if he was not in the Convention at the time the vote was taken.

THE PRESIDENT—On an aye and no vote the gentleman could have his vote recorded, but on a division the Chair thinks the point of order is well taken.

By a vote of fifty-four ayes to forty-eight noes the section as reported by the committee was adopted.

MR. JONES (Montgomery)—I ask unanimous consent to allow this committee to report as to a matter concerning a section of this article, which was referred to it, and also as to one of the resolutions referred to the committee.

The consent was given, and the resolution reported favorably by the committee was read as follows:

Resolution 151, by Mr. O'Neal (Lauderdale):

Resolved by the people of Alabama, in Convention assembled, that it is the sense of this Convention that the General Assembly of Alabama should, at its first meeting after the ratification of this Constitution, fix the salary of the Governor at five thousand dollars per annum provided the same can be done without an increase of taxation in this State.

The report of the committee was thereupon read as follows:

Mr. President:

The Committee on Executive Department instructs me to report the following substitute for Section 4 of the ordinance

"to create and define the Executive Department," and the pending amendments, to wit:

Strike out Section 4 as it now stands and insert in lieu thereof the following words:

"Sec. 4—The returns of every election for Governor, Lieutenant Governor Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education and Commissioner of Education and Industries shall be sealed up and transmitted by the returning officers to the seat of Government, directed to the Speaker of the House of Representatives, who shall, during the first week of the session to which said returns shall be made, open and publish them in the presence of both houses of the General Assembly, in joint convention. The joint convention shall supervise and control the Speaker in the discharge of this duty and has power; first, to determine whether the returns are in legal form, made by the proper officers, and truly give the results as ascertained and declared by the Board of Supervisors in the several Counties; second, to correct such errors as may be found therein; third, to procure proper returns, when, for any cause, returns from any County have failed to reach the Speaker. The joint convention shall have no power to question the returns as to any other matters, or in any other respect. The person found to have the highest number of votes for either of said offices shall be declared duly elected; but if two or more persons shall have an equal and the highest number of votes for the same office, the General Assembly by joint vote, without delay, shall choose one of said persons for said office. Conant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education and Commissioner of Agriculture and Industries, shall be determined by both Houses of the General Assembly in such manner as may be prescribed by law.

The committee recommends the addition of the substitute.

Thomas G. Jones,

Chairman.

MR. JONES (Montgomery)—Mr. President, does that have to be printed? It is not an original ordinance, but it is a section that has been recommitted to the committee.

THE PRESIDENT—The original article was brought before the Convention and printed under the rules, and then the section recommitted. The chair does not think it would be necessary that the substitute should be printed, although it is in the power of the Convention to have it done if it so desired.

MR. JONES (Montgomery)—If it will meet with the pleasure of the Convention as it is in the direction of getting rid of this section, and taking up something that is behind, I move that

we proceed to consider it now. I will state that it is the unanimous report of the committee, and, I believe, covers every objection that has been raised by any member on the floor.

THE PRESIDENT — There is another resolution that the gentleman has brought before the Convention—the resolution of Mr. O'Neal; what disposition will the Convention make of that resolution?

MR. SPRAGINS—I move to lay it on the table.

MR. BROWNE—I make the point of order that under the rules the report of the committee must lie on the table until tomorrow. It is a report of the committee on the resolution.

THE PRESIDENT—It seems to the chair that the rule does not extend to resolutions, but simply to ordinances, that should be printed and lie on the table. The chair, though, will examine the rule.

MR. HOWZE — I would refer the chair to Rule 47, which will give you the information.

THE PRESIDENT—Rule 47 provides: "When any ordinance is introduced, it shall be read at length and be referred by the President without a vote being taken unless otherwise ordered by a two-thirds vote of the Convention, to the appropriate committee. No ordinance shall be reported back from any committee until after the lapse of one entire legislative day. When any committee shall have reported to this Convention any article or section of the proposed Constitution, said article or section shall again be read at length, and 300 copies thereof printed for the use of delegates; and such article or section shall lie on the table at least one day and until in regular order it shall be taken up for consideration by the Convention." This does not apply to resolutions, and they may be immediately considered by the Convention, when reported, or may be postponed, as the Convention may desire.

MR. deGRAFFENREID—But it does not refer either to a sub-division, the article, or a section. As I understand it, this committee has not reported either an article or a section, but simply a section of one article.

THE PRESIDENT—They are simply speaking now with reference to the resolution offered by Mr. O'Neal of Lauderdale and reported by the committee.

MR. JONES—I move the adoption of the resolution.

THE PRESIDENT—The gentleman from Madison has moved to lay the resolution on the table, and that is the pending question.

MR. deGRAFFENREID—Upon that I call for the ayes and noes.

There were expressions of dissent.

MR. deGRAFFENREID—I withdraw that, then.

MR. SPRAGINS—I call for the ayes and noes.

THE PRESIDENT—The call for the ayes and noes is renewed.

The call for the ayes and noes being sustained, a reading of the resolution was called for.

MR. COBB—Is that amendable at this stage?

THE PRESIDENT—Not while the motion of the gentleman from Madison to lay upon the table is pending. Should the Convention refuse to lay the resolution on the table, it will be open to amendment.

On a call of the roll, the vote resulted as follows:

AYES

Almon,	Glover,	O'Neill (Jefferson),
Barefield,	Grayson,	Parker (Elmore),
Bartlett,	Greer, of Calhoun,	Pearce,
Browne,	Haley,	Phillips,
Bulger,	Handley,	Porter,
Burns,	Heflin, of Chambers,	Proctor,
Byars,	Henderson,	Reynolds (Chilton),
Cardon,	Hodges,	Reynolds (Henry),
Carnathon,	Jenkins,	Sentell,
Case,	Kirk,	Sloan,
Chapman,	Long (Butler),	Spears,
Coleman, of Greene,	Long (Walker),	Spragins,
Cornwall,	Lowe (Lawrence),	Studdard,
Davis, of DeKalb,	Moody,	Thompson,
Fletcher,	Murphree,	Whiteside,
Foshee,	NeSmith,	Williams (Barbour),
Freeman,		Williams (Elmore),

TOTAL—50.

NOES

Messrs. President,	Boone,	Dent,
Banks,	Brooks,	deGraffenreid,
Ashcraft,	Burnett,	Duke,
Beavers,	Cobb,	Eley,
Beddow,	Cofer,	Espy,
Bethune,	Craig,	Fitts,
Blackwell,	Davis, of Etowah,	Foster,

Gilmore,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Harrison,
Heflin, of Randolph,
Hinson,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Ledbetter,
Leigh,
Locklin,
Lomax,
Lowe (Jefferson),
MacDonald,
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Martin,
Maxwell,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Mulkey,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
Opp,
Palmer,
Parker (Cullman),
Pettus,
Pillans,
Pitts,
Reese,
Renfro,
Robinson,
Rogers (Lowndes),
Rogers (Sumter),
Samford,
Sanders,
Sanford,
Searcy,
Selheimer,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Tayloe,
Vaughan,
Waddell,
Walker,
Watts,
White,
Williams (Marengo),
Wilson (Clarke),
Wilson (Washington),
Winn,

TOTAL—87.

ABSENT OR NOT VOTING

Altman,
Carmichael, of Colbert,
Carmichael, of Coffee,
Coleman, of Walker,
Cunningham,
Eyster,
Ferguson,
Greer, of Perry,
Jones, of Hale,
King,
Kirkland,
Morrisette,
O'Rear,
Sollie,
Sorrell,
Stewart,
Weakley,
Weatherly,
Willet,

MR. PETTUS—Mr. President, I ask unanimous leave to explain my vote.

Objection was made.

THE PRESIDENT—Objection is made, and the gentleman is out of order. By a vote of forty-seven ayes and eighty-seven noes, the motion to table is lost.

MR. COBB—I desire to amend the resolution so as to provide that the Legislature be requested to increase the salary.

THE PRESIDENT — The chair will state that the chair will not entertain a motion unless it is put in writing. The clerks find it impossible to keep the journal correct, unless the amendments are put in writing.

MR. COBB—If the chair will let me explain myself, I will put it in writing and send it up.

THE PRESIDENT—The gentleman will proceed.

MR. JONES (Montgomery)—I will state on behalf of the committee and the mover of the resolution, that the amendment suggested by my friend from Macon will be entirely agreeable.

MR. COBB—It would be entirely agreeable to me, provided the Chair had not ruled already, and if that concluded the matter, I would say no more, but the Chair has ruled that it still must go to the Convention, whether this acceptance will be allowed, and on that I ask to say a word or two.

MR. O'NEAL (Lauderdale)—I ask unanimous consent that it be accepted.

To which objection was made.

MR. COBB—I do not propose to detain the Convention at any length. I merely want to call the attention of the Convention to the fact that what was presented by the Committee was identically the same proposition which has already been passed upon by the Convention, inasmuch as the original proposition makes it obligatory upon the General Assembly to do the thing which the Convention itself has declined to do, and in this connection I wish to take occasion to say that those who voted in the negative to the prior proposition, have come to understand, myself among the number, and were perfectly willing to have the salary of the Governor made $5,000 a year, but we took the position that that was a matter to be determined by the General Assembly itself, and therefore any proposition which comes before this Convention along the line of an increase in this salary, I heartily approve.

MR. O'NEAL (Lauderdale)—Will the gentleman allow me to interrupt him?

MR. COBB—Yes.

MR. O'NEAL (Lauderdale) — The original resolution contains the word "should" instead of "shall." It was mis-read. It is "the sense of this Convention that the General Assembly should."

MR. COBB—That is the sense of my resolution. I voted before not because I am opposed to a raise in the salary, but because I believe it ought to be determined by the Legislature and not by the Convention, and I am willing to say to the General Assembly that in the opinion of the Convention it should be done, if it meets a concurrence with their opinion.

MR. HEFLIN (Chambers)—Does not the word "should" make it in the nature of a request?

MR. COBB—Yes, "should" will do; any language to leave it discretionary with the General Assembly as to whether it shall be done or not.

THE PRESIDENT—The Chair will state for the information of the Convention that the word in the original resolution is "should" instead of "shall" that meets the objection of the gentleman, and the amendment of the gentleman from Macon is withdrawn.

MR. PETTUS—I simply wanted to state in order that my position may not be misunderstood, I voted against the Committee on the proposition to increase the Governor's salary, because I did not believe that this was the proper forum in which to legislate a question. Now, Mr. President, in order that the position of the Convention may not be misunderstood, as opposing the increase in the Governor's salary on any grounds, I desire to vote with the Committee on the resolution offered by the gentleman from Lauderdale. I think this is a matter for the General Assembly to determine.

MR. COLEMAN (Greene) — I offer an amendment to the resolution.

The amendment was read as follows:

Move to amend the resolution by striking out the words at the end of the resolution "if it can be done without increase of taxation," and to substitute therefor the following words: "If in the discretion of the Legislature it is for the best interests of the State of Alabama."

MR. SANFORD—I move to lay the amendment on the table.

THE PRESIDENT — The gentleman from Greene has the floor.

MR. COLEMAN (Greene)—I have not yielded the floor.

MR. SANFORD—I beg pardon.

MR. COLEMAN (Greene)—Mr. President, and delegates of the Convention, I believe there are quite a number of delegates here, who coincide with the views expressed by the delegate from Macon, Judge Cobb, but I think upon reading the resolution as offered, it will be ascertained that it is not in accordance with the views expressed by him, and I do not believe it is in accordance with the views entertained by a majority of the delegates of this Convention. It says if it can be done without an increase of taxation. As a matter of course, every delegate in this Convention knows full well that there will be money enough in the

Treasury to raise the Governor's salary to $5,000 a year, but the question is whether or not the Legislature should be compelled to appropriate it for the Governor's salary, if there are other demands of more importance, and more needed than that of an increase of salary. That is the reason that I have offered the amendment. I believe that the fixing of the salary should be left with the Legislature, and the arguments that have been made here, that you cannot trust the Legislature, are arguments, to my mind, in support of the proposition that we should not take it from the legislature, and take advantage of our position and power at this time, to do what we are afraid the people will not have done through their immediate representatives, who represent them upon this identical question.

Year after year it was said, for twenty-five years, the legislature has failed and refused to raise the Governor's salary, and therefore the argument is that we, without ever giving the people an opportunity to express themselves upon this question, shall take charge of it and do what we are afraid the people will not or require to be done by their immediate representatives. For these reasons, and others that could be mentioned, I offer the amendment.

MR. HARRISON—I heartily endorse the amendment offered by the delegate from Greene, and I think without it that the resolution will not express the sense of a majority of this Convention. It has been well said by the gentleman from Macon there are many of us upon this floor whose views have been misrepresented, but I thoroughly agree with him, and the mover of this amendment, that it is strictly a legislative prerogative with which this Convention should have nothing to do. I have no objection to expressing the opinion that I think it should be left entirely to the discretion of the General Assembly of Alabama. It is injecting into the consideration here a question of legislation which ought not to be in the Constitution and I believe that the legislature is not only the proper forum, but they will come nearer to representing the views of the people on this question, than this Convention will, and I trust therefore, that this resolution will be adopted and I appeal to the gentlemen who may oppose it, that we may unite in order to relieve any question. Many of them are against it for the reason that many of us did not think it was the duty of this Convention to legislate upon this subject, and that this amendment will be adopted, and I think that will clearly express the views of a majority of this Convention.

MR. JONES (Montgomery)—Before my friend from Lee resumes his seat, I would like to ask him if he adopts the substitute offered by the gentleman from Greene what is the result of the substitute?

MR. HARRISON—What is the result of it?

MR. JONES (Montgomery)—Yes, what opinion do we express.

MR. HARRISON—You express the opinion that you are in favor of it if the legislature agrees to it. I think it is their prerogative to pass on the question.

Mr. Tayloe took the Chair as President pro tem.

MR. KNOX—Mr. President, the amendment proposed by the gentleman from Greene in effect kills the resolution reported by the Committee on Executive Department. It is offered by an opponent to the original proposition, and it is ingeniously framed so as to kill the resolution. It simply says to the legislature, "Do what you think is best, we express no opinion on the subject." If it was proper for the Constitutional Convention of 1875, at a time of great financial embarrassment, to declare in the Constitution that salaries should be reduced, where is the impropriety in the delegates to this Convention, declaring in favor of an increase when times have improved, and when it is manifest that the salary which the people are paying to their Chief Executive is so meagre, especially when we have the testimony here of distinguished gentlemen who have filled that office who state to us that they were embarrassed because they were unable to maintain the dignity of the position with the meagre allowance made to them by the State. I say if it was proper in one Constitutional Convention to reduce the salary, I can see no objection to the delegates to this Convention declaring their opinion that if the finances of the State will warrant it should be increased. Why, Mr. President, I suppose there is not a wholesale merchant who would send out a salesman to negotiate the sale of his goods, that would not allow him reasonable expense money, that he might dress well and that he might stop at such hotels and live in such style as that he would be enabled to command the trade that he was sent to reach. The people of Alabama ought to supply the Chief Executive with such salary as that he can maintain the dignity of the State he represents, and I therefore hope that the amendment offered by the gentleman from Greene will not be adopted.

MR. BLACKWELL—When we had this question up the other day I voted and argued against any increase by this body of the salary of the Governor of the State for the very reason assigned by the gentleman from Greene. The difference between our reducing the salary of the Governor of the State and other officers in 1875 and our increasing it now is that then the question was before the people and we had pledged the people to reduce them and they had endorsed the pledge and demanded that we reduce the salaries. Now we have not presented the matter to the people and have not had any expression from them and we do not know their will as we did when the salaries were reduced. As a matter of fact, I can see nothing in the resolution of the gen-

tleman from Greene that would prevent the Legislature from believing that this Convention in its judgment thought that the salary ought to be increased. The resolution simply avoids instructing. It is just advisory, advising rather than instructing them to do it. Instruction is a different thing from advice and I favor the resolution of the delegate from Greene because it leaves it discretionary with the Legislature, and as I understand we put ourselves on record as saying we believe it ought to be done but we don't command that it be done.

Mr. Knox resumed the Chair.

MR. COBB—Does not the amended resolution leave it advisory with the Legislature?

MR. BLACKWELL—That is why I am advocating it.

MR. COBB—The amendment which I offered and which was accepted by the committee, does not that leave it entirely advisory?

MR. BLACKWELL—If it does, the gentleman should not object to another that makes it clearer. This other is clearer, better expressed and leads the Legislature to understand better that we are advising without the least shadow of direction.

MR. BEDDOW—I move to lay the amendment of the delegate from Greene on the table.

MR. COLEMAN—Will the gentleman withdraw that?

MR. PRESIDENT—Will the gentleman withdraw for the purpose of hearing Judge Coleman?

MR. BEDDOW—For that purpose only.

MR. COLEMAN—Mr. President and delegates of the Convention, I did not have the resolution before me and it is impossible for any person to keep within his mind and memory as the sentences are written, but I offered an amendment which will install into it what I consider ought to be done. The statements which have been made on this floor by distinguished men who have filled the office that they were in pecuniary distress and were not able to uphold the dignity of the office as it should have been, seems to be without force.

MR. OATES—I desire to interrupt the gentleman. I did not put up such a plea. What I said was that it was wholly inadequate. I expended $5,000 more than I got out of it.

MR. JONES—I didn't put up a poor mouth, but I said many a time I was unable to give assistance where it was deserved. It cost me $20,000 to hold the office and I am not ashamed to admit it.

MR. COLEMAN—I am sorry that the gentleman saw fit to spend his private fortune or a large portion of it in matters that did not pertain to his gubernatorial position.

MR. JONES (Montgomery)—I will ask you if you do not think it pertained to the gubernatorial position if a woman with a lot of children applied to the Governor for help when she had no place to stay that night?

MR. COLEMAN—I did not propose to make the reply which I will but it is strange to me that anyone who has experienced the trouble and difficulties of my friend from Montgomery should exercise such unusual exertion as my friend the delegate from Montgomery did to put himself in the office for the second term.

MR. JONES (Montgomery)—That was because I valued honor more than I did money.

MR. COLEMAN—I do not think the gentleman has absorbed all the honor or the appreciation of honor in Alabama. I think there are hundreds of men in Alabama who have just as much respect and appreciation of the high honor of the place as my friend from Montgomery. Look at the history of the State and tell me if with rare exceptions that office has not been filled by the very best men of the State. When was it that we did not have the very best men of the State to aspire to it knowing full well that the salary was $3,000 or about that, I don't know exactly the amount.

Mr. President, our great loss has been recently alluded to. I hold that there is no man in Alabama more deserving of place and of the good wishes of the people and who experience their loss in greater degree than we have recently in our great loss. I believe like Solomon in his best days he uttered a prayer that he might have wisdom and knowledge to govern this great people, and I do not doubt that what if his life has been spared he would have given us an exceptional administration here at this time without consulting with people who would undertake to legislate upon matters with which we were not entrusted by the people. When did any man standing as a delegate say that the question of raising the salary of the Governor would be presented and insisted upon? There may be members to this Convention who have winced under the castigation of newspapers when denounced as niggardly and have not voted their sentiments. If there are any such they ought to change their votes. But any man who voted from the dictates of justice, trying to carry out the will of his constituents, ought to have the honesty to stand by his judgment and conclusions. I do not care what they say. I propose to be judged by my life's service rendered, and by my own conscience, and I do not see why, at this time, without consultation and without knowing the wishes of the people, other than as have been

explained here and manifested for twenty-five years by the House of Representatives, increase this salary.

The amendment of the delegate from Macon (Mr. Cobb) does not reach the point. It says it shall be done, if it can be done without increasing taxation. Of course, it can be done without increasing taxation, but the great State of Alabama is putting out every dollar she can for school purposes and other developments in this State which are considered to the people more to their interest than any increase in the Governor's salary. Every dollar appropriated to the Governor beyond the present amount will be taken from some other enterprise. You are bound to do it. There will be money in the Treasury, but some other enterprise will suffer. Leave it to the Legislature, and, as the income and revenue increase, we cannot but believe that they will do their duty by the office and the people.

MR. SANFORD—If your Constitution forbids the raising of the Governor's salary during his term, at which time will the increase of salary take effect? The very fact that it forbids the Legislature to act, prevents any increase of salary.

MR. COLEMAN—We have provided for that in my amendment. There is no prohibition on the action of the Legislature. It is left to them to judge of in view of the revenue, and when the time comes that the money can be spared, they will do it.

MR. BEDDOW—I move that the amendment of the delegate from Greene be laid on the table.

MR. JENKINS—On that I call for the ayes and noes.

The call was sustained.

MR. DUKE—It is now about two minutes to 1 o'clock. It will take more than two minutes to call the roll, and I move that the Convention remain in session until this vote is taken.

The motion was carried.

The roll call resulted as follows:

AYES.

Messrs. President,	deGraffenreid,	Grant,
Banks,	Duke,	Heflin, of Chambers,
Beddow,	Eley,	Heflin, of Randolph,
Bethune,	Espy,	Hood,
Boone,	Ferguson,	Hinson,
Brooks,	Fitts,	Howell,
Burnett,	Foster,	Howze,
Cobb,	Gilmore,	Inge,
Craig,	Graham, of Montgomery,	Jones, of Bibb,
Dent,	Graham, of Talladega,	Jones, of Hale,

Jones, of Montgomery,
Jones, of Wilcox,
Kyle,
Ledbetter,
Leigh,
Locklin,
Lomax,
Lowe (Jefferson)
Macdonald,
McMillan (Baldwin)
McMillan (Wilcox)
Malone,
Maxwell,
Merrill,
Miller (Wilcox),
Morrisette,
Mulkey,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale)
O'Neill (Jefferson)
Parker (Cullman),
Pitts,
Proctor,
Reese,
Robinson,
Rogers (Lowndes)
Samford,
Sanders,
Sanford,
Selheimer,
Smith (Mobile),
Smith, Morgan M.,
Tayloe,
Waddell,
Walker,
Watts,
White,
Wilson (Clarke)
Wilson (Wash'gton)

NOES.

Almon,
Ashcraft,
Barefield,
Bartlett,
Beavers,
Blackwell,
Browne,
Bulger,
Burns,
Byars,
Cardon,
Carnathon,
Case,
Chapman,
Cofer,
Coleman, of Greene,
Cornwall,
Davis, of DeKalb,
Davis, of Etowah,
Fletcher,
Foshee,
Freeman,
Glover,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Henderson,
Hodges,
Jackson,
Jenkins,
Kirk,
Knight,
Long (Butler)
Long (Walker),
Lowe (Lawrence),
Martin,
Miller (Marengo),
Moody,
Murphree,
NeSmith,
Opp,
O'Rear,
Palmer,
Parker (Elmore),
Pearce,
Pettus,
Phillips,
Pillans,
Porter,
Renfro,
Reynolds (Chilton),
Reynolds (Henry),
Rogers (Sumter),
Searcy,
Sentell,
Sloan,
Smith, Mac. A.,
Sorrell,
Spears,
Spragins,
Stewart,
Studdard,
Thompson,
Vaughan,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Winn,

ABSENT OR NOT VOTING.

Altman,
Carmichael, of Colbert,
Carmichael, of Coffee,
Coleman, of Walker,
Cunningham,
Eyster,
Greer, of Perry,
King,
Kirkland,
Sollie,
Weakley,
Weatherly,
Willett.

THE PRESIDENT—The result is seventy ayes and seventy noes.

MR. COLEMAN—I call for a verification of the vote.

The vote was verified and the vote announced above, so the motion to table was lost.

MR. COLEMAN—I think that count had better be verified. We have it differently.

MR. SAMFORD—I rise to a question of inquiry. The other day a report from the Committee on Rules providing for double sessions, I understood, make the sessions begin on Thursday.

THE PRESIDENT—That was laid on the table, to be called up from day to day, when the Convention desired.

MR. GREER—I rise to a point of inquiry. I would like to add up that vote.

MR. JONES—I rise to the point of order that the House stands adjourned.

TWENTY-SIXTH DAY

MONTGOMERY, ALA.,

Friday, June 21, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Murphy, as follows:

O God, Ruler, Deliverer, Judge, whose will is the order of the world, and in whose right hand is the sceptre of righteousness forevermore, rule, we pray Thee, in our hearts today. Help us, in our silence and in our speech, in work and leisure, in our going out and our coming in, to dwell in the presence of Thy light, and to feel within us and upon us the calm watching of the eternal eye.

Defend us from all that may be unworthy in the counsels of fear, and from all that is ignoble in the devices of selfish power. Give us, we beseech Thee, the renown of the dutiful and the joy of the true in heart, keep us by the Spirit of gentleness and by the courtesies of a healing and an understanding patience from the petty discord of selfish minds, that a common statesmanship may bring truth with peace, and harmony from the multitude of counsels. Grant that we may desire that for which we pray, and that we may perform what we desire. Give us wisdom, courage, truth!

Touch with the hand of healing and of pity, the hearts of those who suffer and who sorrow. If affliction fall on any man

among us bring love and strength and hope. When the shadows lengthen, and the far lights grow dim, and the breath of the long night comes up from the fields of sleep, and the dark river rolling by, help us then to go on like men, unafraid and unabashed, in that Thou our God hast called us Home, through Jesus Christ, our Lord. Amen.

The roll was called and showed the presence of one hundred and thirty-eight delegates.

LEAVES OF ABSENCE.

For Today—Mr. Merrill.

For Yesterday and Today—Messrs. Eyster, E. D. Willett, Carmichael (Colbert).

For Today and Tomorrow (Saturday)—Messrs. Winn, Coleman (Walker).

For Tomorrow (Saturday)—Messrs. Bethune, Jones (Bibb), Heflin (Randolph), Waddell, Burnett, Long (Butler), Miller (Marengo), Almon, Davis (Etowah), Williams (Elmore), Norwood (Lowndes), Foshee.

For Yesterday, Today and Saturday—Mr. Altman.

For Saturday and Monday—Messrs. Craig, Stewart, Inge.

For Yesterday—Dr. Cunningham (Jefferson).

THE PRESIDENT—The Chair will explain that several requests were laid on the desk, and as the session on yesterday was protracted the Chair failed to place them before the Convention.

THE PRESIDENT—The next order of business is the report of the Committee on the Journal.

MR. PROCTOR—The Committee on Journal is not ready to report yet. We would like to have time and report some time during the day.

The leave was granted.

THE PRESIDENT—The next business is the call of the roll of delegates.

MR. ASHCRAFT—The stenographic report made me say on yesterday that Mr. Carmichael desired to vote no on the question reconsidering the resolution. Mr. Carmichael desired to vote aye, and I voted no.

THE PRESIDENT—The stenographer will make the necessary correction.

MR. deGRAFFENREID—I move that we dispense with the regular order this morning and proceed to the consideration of the matter which was being considered when the House adjourned on yesterday.

MR. COBB—I rise to correct the stenographic report. I would not do this except from the fact that I am made to say just exactly what I did not say. In about the fifteenth line it is written here "those who voted in the negative to the prior proposition, have come to understand myself among the number." I am thus put in the attitude of changing the position I took originally which was not my intention or language. What I said was that "those who voted in the negative to the prior proposition, myself among the number, have been greatly misunderstood. We were perfectly willing to have the salary of the Governor made $5,000 a year, but we took the position that it was a matter to be determined by the General Assembly itself," etc.

MR. COLEMAN (Greene)—I notice some inaccuracies in the report of what was said by me on yesterday. Some of the sentences are incomplete. I believe, however, that enough remains, if a person should hereafter read the chronicle, to understand what I intended. I therefore do not desire to have any special corrections inserted.

In reading the report of the remarks I made yesterday it is possible that some of the delegates may have understood that I was casting some personal reflection upon my friend, the delegate from Montgomery. I wish to disclaim anything of that kind. He is one of my best friends. I believe that his administration was as pure as that of any Governor of this State, and it had my endorsement throughout, but I felt justified at the time in making the repartee, or reply that I did, not intending in any way to be discourteous or to reflect upon him.

MR. JONES (Montgomery)—I beg to say that on yesterday I was wounded, but what the gentleman has said is in keeping with what I have always believed to be his character, and if I were not on crutches, I would walk over and shake hands with him, and I now dismiss it from my mind forever.

MR. HEFLIN (Chambers)—I wish to correct the stenographic report. At the conclusion of the speech of the gentleman from Macon I asked him if he did not think the word "should" would be better in the resolution than the word "requested," and the stenographic report has me saying "does not the word should make it in the nature of a request."

THE PRESIDENT—The stenographer will make the correction.

MR. KIRK—I ask unanimous consent to send up a resolution, that it may be read and referred to the Committee on Rules.

Resolution 172 by Mr. Kirk (Colbert.)

Whereas, the power to regulate the right of suffrage should be left exclusively, to the several States of the Union, and

Whereas, the people of Alabama find it necessary to the preservation of good government and honest elections to restrict the right of suffrage where granted to alien and inferior races, and desiring to avoid any seeming conflict between the organic law of the State of Alabama and the Federal Constitution, now therefore

Be it resolved, That the President of this convention appoint a committee of five, of which he shall be chairman, to prepare suitable memorials to the Congress of the United States looking to an amendment of the Federal Constitution, whereby the fifteenth amendment of said constitution may be stricken therefrom.

Referred to Committee on Rules.

THE PRESIDENT—The Chair is requested to read the following:

Montgomery, Ala., June 21, 1901.

To Frank N. Julian, Secretary Constitutional Convention, City:

Sirs—Yours enclosing resolution No. 171 of the Constitutional Convention was duly received. The resolution was read to the Alabama Press Association and received with satisfaction. I was instructed to extend thanks for the handsome recognition of this Association by a convention which will rank in history as one of the most important that ever essembled in this State.

Very respectfully,

J. A. Roundtree,

Secretary Alabama Press Associaition.

MR. HARRISON—I ask unanimous consent to introduce a resolution, which is short and I think will commend itself to the convention.

Resolution No. 173 by Mr. Harrison:

Resolved, That the Committee on Rules be and are hereby restricted to fix the time in which all ordinances reported by committees shall be considered by this convention and at the expiration of the time so fixed the previous question shall be considered as ordered and the convention shall proceed to vote upon the ordinance reported.

Resolved further, That half of the time fixed by the Committee on Rules for the consideration of any ordinance shall be allowed to the committee reporting the same and the other half to those proposing amendments and opposing the ordinance.

Referred to Committee on Rules.

MR. COBB—I ask unanimous consent to introduce two very short resolutions, in the interest of saving time to this convention, to be referred to the Committee on Rules.

Resolution 174 by Mr. Cobb.

Resolved, That rule 17 of this convention be amended by striking out the word "thirty" in the ninth line and inserting the word "ten" so as to limit the right to close the debate—after the call for the previous question has been sustained, to ten minutes.

Referred to Committee on Rules.

Resolution 175 by Mr. Cobb:

Resolved, That requests for leave of absence shall be made to the speaker who is empowered to grant the same without taking up the time of the convention.

Referred to Committee on Rules.

MR. GRAHAM (Talladega)—I have a substitute for the Committee's resolution 151.

MR. deGRAFFENREID—That is the resolution that was under discussion on yesterday?

MR. GRAHAM—Yes.

MR. deGRAFFENREID—Then I make the point of order that it is out of order.

The point of order was then withdrawn.

MR. SAMFORD—I will renew the objection, Mr. President. Let it come up in its regular order.

THE PRESIDENT—The Chair will state to the gentleman from Talladega that this will be in order when that regular order is reached, and there is a motion which the Chair will place before the convention on this subject, just as soon as the gentleman from Greene returns.

MR. LOMAX—I ask unanimous consent for the Committee on Preamble and Declaration of Rights to submit a report, that it may be read and printed, and lie on the table.

THE PRESIDENT—Does the gentleman request that the report be read at this time?

MR. LOMAX—That is the rule, as I understand it.

THE PRESIDENT—The report will be read, lie on the table and be printed.

MR. BLACKWELL—This is a minority report on the same subject and I ask that it be printed and lie on the table.

THE PRESIDENT—Unanimous consent is asked that the report of the Committee be read; is there any objection to received and reading the report of the Committee on Preamble and Declaration of Rights?

MR. PILLANS—I object sir. I think it will save time.

MR. BOONE—Under the rules it has to be read twice, sooner or later.

MR. PILLANS—If my objection will avail, I insist upon it, because I think this convention is wasting too much time here in reading. The report will be printed, and each gentleman will read it, and it will then be read section by section.

MR. LOMAX—The rules of this convention require that the report of a committee, and the article submitted by the committee, shall be read before this convention, before it shall lie on the table or be printed. If there is a single committee of this convention, whose report is unworthy to be read before it, that committee ought not to have been appointed by this convention. If there is an article in the proposed constitution that does not deserve to be heard by the delegates of the people, in convention assembled, we ought not to have such article in the constitution. I view of the objection of the gentleman from Mobile, I move that the rules be suspended, and that the report be read for the information of the convention.

MR. BROOKS—I rise to a point of order. The convention has already allowed the Chairman of the Committee to submit his report, and under the rules it must be read, unless the rules are suspended.

THE PRESIDENT—The gentleman from Montgomery asked unanimous consent to submit the report of the Committee on Preamble and Declaration of Rights, and that the report be read and lie on the table and be printed; the Chair stated the question to the convention and there was objection. Now the gentleman from Montgomery moves a suspension of the rules.

MR. LOMAX—I desire to say further, Mr. President, that whenever there comes a time in the history of constitutional government, when a constitutional convention will refuse to hear read the declaration of the rights of the people, the time is approaching when free government on the American continent will be in danger.

MR. PILLANS.—A word. I shall not permit myself to be put in a false attitude by any eloquent remarks of a fellow delegate to this convention, without replying. We have set here twenty-five days I believe, and we have not yet adopted the first article reported to this convention. We have no prospect of ever getting through with our work at the present rate of progress. We halt at every turn, to discuss matters not connected with the organic law of the State, and I am here, sir, to object from this time out, to any unnecessary consumption of the time of the State, which is costing such a large sum of money, or of the time of delegates which they ill afford to spare to the State. Now, sir, I have no reason to believe that any gentleman will suspect me, in so objecting, of being unwilling to have read to the convention any article reported by any committee, but under our rules these reports are printed; after they are printed they are read by each member of the convention, before he votes upon it, and desides that, there is a reading clerk who reads each section of each article before it is voted upon, and the progress we have made thus far, shows that there has not been a section which has come up for consideration in this house that has not been carefully canvassed by every member of the convention, before we came to its consideration.

Now, sir, I want to disclaim any disrespect to the Committee whatever, in making the objection. I feared that an objection would not prevent the reading, yet I said if my objection would avail, I would object; but it was without any discourteous intent, and merely with a view of objecting, on each occasion when there is a proposition to read anything that will have to be read again, and that will lie upon our desks in printed form. It was with that view I make the objection, and I do not care to consume more time on it now.

MR. REESE—I rise to a parliamentary inquiry. Under the regular order, at 11 o'clock, isn't the next order the reports of the standing committees, after the call of the roll for the introduction of ordinances, and would not the gentleman have a right to make a report without asking a suspension of the rules?

MR. deGRAFFENREID—And have it read.

MR. REESE—To read this report now will consume the time which properly should go to the reading of resolutions, and ordinances and we shall have to suspend the rules to get these things in.

MR. LOMAX—I desire to withdraw the motion to suspend the rules, because unanimous consent had already been granted to me, as I understand it, to offer that report to be read; under the rules it ought to be read to the convention, and the only reason I asked leave at this time to offer the report was in view of the

notice which had already been given by the gentleman from Hale, that he would move to suspend the rules and take up the report of the Committee on Executive Department.

THE PRESIDENT—The gentleman from Montgomery is mistaken. He made his request, and the Chair submitted the request, as was the duty of the Chair, to the Convention, and thereupon the gentleman from Mobile objected. Thereupon the gentleman from Montgomery moved to suspend the rules. Does the Chair understand that motion is insisted upon?

MR. LOMAX—Yes sir. I move to suspend the rules, and that the report of the Committee be read now.

Upon a vote being taken, the rules were suspended, and the report of the Committee, and the Article accompanying the report, were read as follows:

Mr. Browne here took the Chair.

Report of the Committee on Preamble and Declaration of Rights:

Mr. President.

The Committee on Preamble and Declaration of Rights instructs me to report the Preamble and Declaration of Rights hereto attached for adoption by this convention. The Committee has carefully examined and considered all of the ordinances referred to it and has incorporated the principles of some of them in the Article herewith reported. A large number of them have been rejected by the Committee because it was believed that the great and essential principles of liberty embodied in the bill of rights, being, as they are, the crystalization of the experience of centuries, should be preserved, as far as possible, from change and innovation. The changes which have been made in the present Article by omission of certain parts thereof have been made because the omitted portions were not properly part and parcel of a solemn statement of the reserved rights of the people to unequivocally declare which is the aim and purpose of the Bill of Rights or the Constitution of our State. Some of the ordinances rejected by the Committee failed of adoption because it was evident that the object sought to be attained could be secured by legislative action and that, hence, they were not proper matter for Constitutional enactment. The few sections and parts of sections added by your Committee, and not proposed by any ordinance referred to it, were adopted because in the judgment of the Committee they made more clear and specific, and gave greater emphasis to, those rights of the people which are above and beyond the general power of government.

All ordinances referred to the Committee are herewith respectfully returned.

The following are the material changes reported:

The preamble has been shortened merely with a view of conforming to the practice of recent conventions, all of which have adopted the shorter form of preamble.

To Section 5 of the Declaration of Rights the following words have been added: No law shall ever be passed to curtail or restrain the liberty of speech or of the press.

To Section 7 the following additions have been made: a provision fixing in the Constitution the right of the defendant to testify in his own behalf and, also, one permitting a motion by a defendant for a change of venue to be heard and determined in his absence.

In Section 9 the named misdemeanors are stricken out and the words "In cases of misdemeanor" are inserted.

There is added in Section 10 a provision that in cases fixed by law the trial judge may discharge a jury without the consent of the defendant.

In Section 13 the words "for libel" are inserted in the first line so as to permit the truth thereof to be given in evidence.

Section 23 is changed by prohibiting the General Assembly from granting any exclusive, as well as irrevocable, special privileges or immunities, and providing that all franchises, privileges and immunities shall be subject to revocation, alteration and amendment.

There is added to Section 27 a provision requiring the General Assembly to define small arms and to regulate the bearing of the same.

The word "right," as applied to suffrage, is stricken out and the word "privilege" inserted.

Section 35 is stricken out as having no place in a Declaration of Rights.

Section 38 is changed to Section 37 and also by striking out the prohibition against an educational or property qualification for suffrage.

Section 38 is a new section prohibiting the exercise by one department of the government of any of the functions of either of the other departments thereof.

Section 29 is retained as in the present Constitution with the addition of a declaration that the rights retained by the people are excepted out of the general powers of government and shall forever remain inviolate.

Upon some of the sections of the Declaration of Rights reported herewith the members of the Committee are not unanimous and the dissenting members will either submit minority reports or reserve liberty of action when the Article reported is taken up for consideration by the convention.

Tennent Lomax, Chairman.

An Ordinance adopting a preamble and Declaration of Rights for the Constitution of the State of Alabama.

Be it ordained by the people of the State of Alabama in convention assembled that the following shall be the Preamble and Declaration of Rights of the Constitution of this State:

PREAMBLE.

We, the people of the State of Alabama, in convention assembled, in order to establish justice, ensure domestic tranquility and secure the blessings of liberty to ourselves and our posterity—invoking the favor and guidance of Almighty God—do ordain and establish the following Constitution and form of government for the State of Alabama:

ARTICLE 1.

Declaration of Rights.

That the great, general and essential principles of liberty and free government may be recognized and established, we declare

1. That all men are equally free and independent; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness.

2. That all persons resident in this State, born in the United States, or naturalized, or who shall have legally declared their intention to become citizens of the United States, are hereby declared citizens of the State of Alabama, possessing equal civil and political rights.

3. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that, therefore, they have at all times an inalienable and indefeasible right to change their form of government, in such manner as they may deem expedient.

4. That no religion shall be established by law; that no preference shall be given by law to any religious sect, society, denomination, or mode of worship; that no one shall be compelled by law to attend any place of worship; nor pay any tithes, taxes or other rate for the building or repairing any place of worship, or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust, under this State; and that the civil rights, privileges and capacities of any citizen shall not be in any manner affected by his religious principles.

5. No law shall ever be passed to curtail or restrain the liberty of speech or of the press; and any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

6. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures or searches, and that no warrant shall issue to search any place, or to seize any person or thing without probable cause, supporting by oath or affirmation.

7. That in all criminal prosecutions, the accused has a right to be heard by himself and counsel, or either: to demand the nature and cause of the accusation; to have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to testify in all cases, in his own behalf, if he elects so to do; and in all prosecutions by indictment a speedy, public trial, by an impartial jury of the county or district in which the offense was committed; and that he shall not be compelled to give evidence against himself, nor be deprived of life, liberty or property, but by due process of law; but the General Assembly may by a general law provide for a change of venue for the dependant in all prosecutions by indictment, and that such change of venue, on application of the defendant, may be heard and determined without the personal presence of the defendant so applying therefor.

8. That no person shall be accused of, arrested, or detained, except in case ascertained by law, and according to the forms which the same has prescribed; and no person shall be punished, but by virtue of a law established and promulgated prior to the offense, and legally applied.

9. That no person shall, for any indictable offense, be proceeded against criminally by information except in cases arising in the militia and volunteer forces when in actual service, or by leave of the court, for misfeasance, misdemeanor, extortion and oppression in office, otherwise than is provided in this Constitution; Provided, that in cases of misdemeanor, the General Assembly may, by law, dispense with a grand jury and authorize such prosecutions and proceedings before justices of the peace, or such other inferior courts as may be by law established.

10. That no person shall, for the same offense, be twice put in jeopardy of life, or limb; but courts may, for reasons fixed by law, discharge juries from the consideration of any case, and no person shall gain any advantage by reason of such discharge of the jury.

11. That no person shall be barred from prosecuting or defending, before any tribunal in this State, by himself or counsel, any civil cause to which he is a party.

12. That the right of trial by jury shall remain inviolate.

13. That in all prosecutions for libel or for publication of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libel, the jury shall

have the right to determine the law and the facts under the direction of the court.

14. That all courts shall be open, and that every person, for any injury done him, in his lands, goods, person or reputation, shall have a remedy by due process of law; and rights and justice shall be administered without sale, denial or delay.

15. That the State of Alabama shall never be made a defendant in any court of law or equity.

16. That excessive fines shall not be imposed, nor cruel or unusual punishment inflicted.

17. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident, or the presumption great; and that excessive bail shall not in any case be required.

18. That the privileges of the writ of habeas corpus shall not be suspended by the authorities of this State.

19. That the treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or his confession in open court.

20. That no person shall be attainted of treason by the General Assembly; and that no conviction shall work corruption of blood or forfeiture of estate.

21. That no person shall be imprisoned for debt.

22. That no power of suspending laws shall be exercised, except by the General Assembly.

23. That no ex post facto law, or any law, impairing the obligation of contracts, or making any irrevocable or excessive grants of special privileges, or immunities, shall be passed by the General Assembly; and every grant of a franchise, privilege or immunity shall forever remain subject to revocation, alteration or amendment.

24. That the exercise of the right of eminent domain shall never be abridged nor so constructed as to prevent the General Assembly from taking the property and franchises of incorporated companies, and subjecting them to public use the same as individuals; but private property shall not be taken or applied for public use, unless just compensation be first made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owner; provided, however, that the General Assembly may, by law, secure to persons or corporations, and by general laws provide for and regulate the exercise by persons and corporations of the rights herein reserved, but just compensation shall in all cases be first made to the owner; and, provided, that the right of eminent domain shall not be so construed as to allow taxation or forced

subscription for the benefit of railroads or any other kind of corporations, other than municipal, or for the benefit of any individual or association.

25. That all navigable waters shall remain forever public highways, free to the citizens of the State, and of the United States, without tax, impost or toll; and that no tax, toll, impost or wharfage shall be demanded or received from the owners of any merchandise or commodity, for the use of the shores, or any wharf erected on the shores, or in or over the waters of any navigable stream, unless the same are expressly authorized by law.

26. That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government for redress of grievances, or other purposes by petition, address or remonstrance.

27. That every citizen has a right to bear arms in defense of himself and the State, and it shall be the duty of the General Assembly to define by law small arms, and regulate the bearing of same.

28. That no standing army shall be kept up without the consent of the General Assembly, and in that case no appropriation for its support shall be made for a longer term than one year, and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

29. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

30. That no title of nobility or hereditary distinction, privilege, honor or emolument shall ever be granted or conferred in this State; and that no office shall be created the appointment to which shall be for a longer time than during good behavior.

31. That immigration shall be encouraged, emigration shall not be prohibited, and that no citizen shall be exiled.

32. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

33. That no form of slavery shall exist in this State; and there shall not be any involuntary servitude, otherwise than for the publishment of crime, of which the party shall have been duly convicted.

34. The privilege of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult, or other improper conduct.

35. Foreigners who are or may hereafter become bona fide residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property, as native born citizens.

36. That the sole object and only legitimate end of government is to protect the citizens in the enjoyment of life, liberty and property, and when the government assumes other functions it is usurpation and oppression.

37. That no restraint upon the privilege of suffrage on account of race, color, or previous condition of servitude, shall be made by law.

38. In the government of this State, except in the instance in this Constitution hereinafter expressly directed or permitted, the legislative department shall never exercise the executive or judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end that it may be a government of laws and not of men.

39. That this enumeration of certain rights shall not impair or deny others retained by the people; and, to guard against any encroachments on the rights herein retained, we declare that every thing in this Declaration of Rights is excepted out of the general powers of government, and shall forever remain inviolate.

The undersigned member of the Committee on Preamble and Declaration of Rights concurs in the majority of said report save as to portions of Section 7 and he offers as amendment to portions of Section 7 the following:

And in all prosecutions by indictment the place in the County or district in which the crime was committed shall be stated with reasonable certainty as to enable the defendant to know the particular place where the criminal act is alleged to have been committed.

Respectfully submitted,

J. H. Barefield.

The undersigned members of the Committee on Preamble and Declaration of Rights do not concur in the foregoing report of the Committee so far as it relates to Section 12, Article I for the following reasons:

In every relation of life in Alabama where the result is dependent upon the opinions and decisions of a number of persons, the principal of majority rule governs, with the single exception of a verdict of a jury. Why should a unanimous verdict on a question of fact be required and enforced from a jury? A majority of one vote in this Convention either puts a proposition in the organic law or rejects it. A majority of one vote in each House of the General Assembly creates, repeals or modifies a positive law, regardless of the magnitude of the interests involved. A majority of the Senate of the United States ratifies or refuses to consent to a treaty with a foreign power. A majority of a single vote in a half a million in a pivotal State may elect a President of the United States, change the policy of government and bring prosperity or ruin to seventy millions of people. And yet the majority of the Committee deny this principal to a verdict of a jury in a civil suit at law. When a judgment is entered on a unanimous

verdict, if an appeal is taken to the Supreme Court of the State it can be then finally adjudicated by a bare majority of the justices. So in the Supreme Court of the United States five of the Justices against four held the income tax unconstitutional; and in the same Court five of the Justices held that Porto Rico was not under the Constitution, and four that it was. Again in all ministerial and executive bodies the majority rules, and the will of the minority when lawfully expressed. For these reasons we think that the provision authorizing three-fourths of a jury to render a verdict in a civil case should become a part of our Constitution as it is of several other important States of the Union.

We therefore recommend as a substitute for Section 12, Article I as reported by the Committee, the following:

Art. I, Sec. 12. The right of trial by jury as heretofore enjoyed, shall remain inviolate, but in civil actions three-fourths of the jury may render a verdict.

Respectfully submitted,

Sam'l Blackwell,

E. P. Wilson,

T. J. Cornwell.

THE PRESIDENT PRO TEM.—Under the rules, the report of the Committee will be printed and lie on the table.

MR. VAUGHAN—I have a short resolution referring to the report that has just been read, which I would like to offer.

Permission was given, and the resolution read as follows:

Resolution No. 176, by Mr. Vaughan:

Resolved, That the report of the Committee on Preamble and Declaration of Rights shall be taken up and disposed of immediately after the report of the Committee on Taxation is disposed of."

MR. LOMAX—I move you, sir, that the rules be suspended and that that resolution be put upon its immediate passage.

Upon a vote being taken to suspend the rules, a division was demanded. A reading of the resolution was called for, and the resolution again read.

MR. SANFORD—I called for a division, and after hearing the resolution again read, I now withdraw the call.

A vote being taken the rules were suspended, and upon a further vote being taken the resolution was adopted

MR. REESE—I ask unanimous consent to have a very short ordinance read and referred to a Committee.

THE PRESIDENT, PRO TEM. — The gentleman asks unanimous consent; is there objection? The Clerk will read the ordinance.

MR. WADDELL—There is a motion pending before the House.

THE PRESIDENT, PRO TEM.—What motion?

MR. WADDELL—The motion of the gentleman from Hale.

MR. deGRAFFENREID—The house can proceed by unanimous consent.

MR. WADDELL—I call for the regular order.

THE PRESIDENT, PRO TEM.—Objection is made—

MR. REESE—I make the point of order that it was submitted to the House, and no objection was made.

THE PRESIDENT, PRO TEM.—The point of order is well taken. The chair submitted it to the House and no objection was made. The objection comes too late.

Ordinance 392, by Mr. Reese was read as follows:

Ordinance No. 392, by Mr. Reese of Dallas:

An ordinance to be entitled Section —— of Article IV.

Be it ordained by the people of Alabama in Convention assembled,

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

Section —. All members of the legislature, and the Lieutenant Governor, before they enter upon the execution of the duties of their respective offices, shall take the following oath or affirmation, to wit:

"I, ————, solemnly swear (or affirm as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Alabama, so long as I continue a citizen thereof, and I do specially swear (or affirm as the case may be) that I will faithfully and honestly uphold and enforce the provisions of Sections 20, 21, 22 and 27 of Article IV of said Constitution, and that I will faithfully and honestly discharge the duties of the office upon which I am about to enter to the best of my ability so help me God." Which oath may be administered by

the presiding officer of either House of the legislature, or any officer authorized by law to administer oaths.

Referred to Committee on Legislative Department.

MR. BEDDOW—I ask unanimous consent to introduce a short ordinance, to be referred to the Committee on Executive Department. It is on a point that is about to be reached in their report.

MR. deGRAFFENREID—I am not going to object to the reading of that, but I want to give notice that I will object to any further suspension of the regular order.

THE PRESIDENT, PRO TEM.—The gentleman asks unanimous consent to introduce an ordinance—

MR. GREER (Calhoun)—I object.

MR. BEDDOW—I ask the gentleman to withdraw it. It is on a subject that will come up for consideration today.

MR. GREER (Calhoun)—I withdraw it this time, but I will give notice that I will object to any further suspension of the rules.

The ordinance was read as follows:

Ordinance No. 393, by Mr. Beddow:

An ordinance to create a State Board of Arbitration.

Section 1. The Legislature shall establish a State Board of Arbitration of which the Commissioner of Agriculture and Industries shall be ex-officio Secretary.

Sec. 2. Whenever any disputes arise in any industry in this State between employers and employes, the different parties directly interested may agree to submit the matter in dispute to be arbitrated by the State Board of Arbitration, which shall be organized as follows.

Each party in the dispute shall notify the Secretary of the Board of their intention to submit their dispute to arbitration, and each certify to him the names of two persons to be commissioned by him to act as arbitrators. The Secretary of the Arbitration Board shall call the arbitrators so commissioned by him to meet at the Capitol at Montgomery at as early a date as practical, who will proceed to organize by electing a disinterested person to set as umpire in case they fail to agree. The Board so organized shall take cognizance of such disputes only as voluntarily submitted to it for adjudication; but the Secretary shall have power to enforce all of its awards conferred upon it by the Legislature.

Sec. 3. The Legislature shall provide by law for the expense necessarily incurred by the Board.

Referred to Committee on Executive Department.

MR. PROCTOR—The attention of the Chair is called to the fact that there is pending a motion made by the gentleman from Hale.

MR. deGRAFFENREID—That motion is pending, but it is no longer necessary that it should be put to the House, because the hour of 11 has arrived, and, under the rules of the House the time has arrived for the consideration and discussion of the very matter to which the motion was addressed.

MR. O'NEAL (Lauderdale)—I ask unanimous leave to offer an ordinance, to be referred to the Committee on Preamble without reading.

MR. LOMAX—Mr. President, the rules require it to be read.

There being no objection made, the ordinance was read as follows:

Ordinance No. 394, by Mr. O'Neal (Lauderdale):

To amend the first proviso of Section 24 of Article I, of the Contistution.

Be it ordained, by the people of Alabama in Convention assembled, That the first proviso of Section 24 of Article I. of the present Constitution be amended so as to read as follows: "Provided, however, that the General Assembly may, by law, secure to persons or corporations, and by general laws provide for and regulate the exercise by persons and corporations of the rights herein reserved; but just compensation shall, in all cases, be first made to the owner; but, in case one railroad corporation finds it necessary to cross with its line of railroad the track of another such corporation, and such corporations cannot agree as to what amount in damages should be paid by the corporation making such crossing to the corporation whose track is to be crossed, the Railroad Commission of the State is authorized, and it is hereby made their duty, upon written application of the corporations seeking such right of crossing and after notice to the other corporation thereof, and evidence received from the parties, to fix the amount of said damage, which will be sustained by the corporation, whose track is to be crossed, and when the amount so fixed by said Commission is paid to the corporation whose track is to be crossed, or, in the event of its refusal to accept the same, is deposited with the said commission for said corporation, such crossing may be constructed without further delay, subject, however, to the payment, by said corporation making such crossing, of any further damages; which

may be recovered as just compensation by the corporation whose track is so crossed.

Referred to Committee on Preamble and Declaration of Rights.

THE PRESIDENT PRO TEM.—The question before the Convention, as the Chair remembers it, is upon the amendment of the gentleman from Greene, to the amendment of the gentleman from Macon—

MR. deGRAFFENREID—To the resolution of Mr. O'Neal.

THE PRESIDENT PRO TEM.—To the resolution reported by the committee, but there is an amendment pending, offered by the gentleman from Greene, to an amendment or substitute offerred by the gentleman from Macon, as the Chair understands it.

The Chair is informed that the gentleman from Macon did not prepare and send up his amendment.

MR. O'NEAL (Lauderdale)—I move to lay the amendment of the gentleman from Greene on the table.

THE PRESIDENT PRO TEM.—That was voted on yesterday.

MR. O'NEAL (Lauderdale)—Then I move that it be indefinitely postponed.

MR. COBB—I think my amendment was accepted by the committee and incorporated in their report, as I understand it.

MR. O'NEAL—I withdraw the motion which I made, Mr. President.

MR. COBB—My amendment was accepted by the committee, and incorporated into their report.

MR. O'NEAL (Lauderdale)—It was in the original report, and the original report was misread. That was the cause of the misunderstanding. Now I withdraw my motion. I rise to a point of order—

THE PRESIDENT PRO TEM.—The gentleman will state the point of order.

MR. O'NEAL—What is the question before the House?

THE PRESIDENT PRO TEM.—The question before the Convention is upon the amendment offered by the gentleman from Greene, to the resolution of the gentleman from Lauderdale, as reported by the committee.

MR. COLEMAN (Greene)—On yesterday, when I offered that amendment I did not have the resolution before me, and as I stated, I could not remember the exact wording of it. Upon

examining the amendment this morning, I see it fails to strike out the word provided. To make it grammatical, it should have been offer "move to strike out the following words: "provided the same can be done without an increase of taxation in this State," and substitute therefor the words "if in the discretion of the General Assembly it is for the best interest of the State."

THE PRESIDENT PRO TEM.—The gentleman asks unanimous consent to correct the amendment offered on yesterday. If there is no objection, the gentleman's amendment will be corrected, and the clerk read the amendment as corrected.

The amendment was read as follows:

Motion to amend resolution No. 151, offered by Mr. O'Neal (Lauderdale), reported favorably by the committee; amendment by Mr. Coleman (Greene). Move to amend the resolution by striking out the following words "provided the same can be done without an increase of taxation in the State," and substitute therefor the words "if in the discretion of the General Assembly it is for the best interest of the State of Alabama."

THE PRESIDENT—The question is on the adoption of the amendment offered by the gentleman from Greene to the resolution as reported by the committee.

MR. COLEMAN (Greene)—Mr. President and delegates of this convention, I am always willing to meet in discussion any question which may be presented to this Convention, and have my conclusions made after a full discussion of the same. We ask no favors, but we desire at least an opportunity to express our views. I was, therefore, astonished that I should be met this morning in the first instance by a motion to lay this amendment on the table, or by any other movement, of the delegates of this Convention, which would cut off free debate upon so important a measure. If it be not out of order, Mr. President, I am contrained to add what I wished to withhold, that is, information that since the adjournment, parties who are opposed to this resolution have seen proper not to submit the case to discussion here, and to be decided by you, but upon an ordinance to be passed and become a part of the organic law. There has been what might be termed buttonhole pleading and log-rolling. I believe that every man here should be guided by his convictions upon the facts of the case, and he who does less does not properly represent any constituency. I hope that I was misinformed. Mr. President and delegates of this Convention, I have but little more to add to what was said yesterday. It seems to me, after further consideration, that this question should be left with the Legislature, and, after examining the salaries of Governors of many States, I have been unable to find a single State where the salary of the Governor reaches $5,000 and the revenues are the same or approximately the same, as in Ala-

bama. If I am mistaken, I would be happy to be corrected. I have the list of those States in my pocket. In one or two instances I failed to get the latest Code, but I will state to you as far as I could ascertain, the salaries of the Governors of the different States whose population and revenues are somewhat similar to our own. North Carolina, the salary is fixed at $3,000; in Ohio, in 1880, at a time when the population and revenues were largely in excess of what ours are today, it was fixed at $4,000.

MR. GRAHAM (Talladega)—I want to ask a question in connection with that statement.

MR. COLEMAN—Yes, sir.

MR. GRAHAM—Will you please state which of these States have Governor's mansions in connection with the salaries?

MR. COLEMAN—In the Constitution?

MR. GRAHAM—Whether in the Constitution or otherwise—whether or not there is not a mansion included with the salary?

MR. SAMFORD—And incidental expenses?

MR. COLEMAN—I am glad the gentleman has made the inquiry, although it diverts me from the course of my remarks. If these gentlemen had introduced a resolution that a mansion should be provided for the Governor, it would not have the same objections to it, because it would be the property of the State. Under the proposed regulation to increase the salary $2,000 a year, in five years you will have paid $10,000 and the State will have nothing to show for it, but if you take the $10,000 and purchase a mansion for the Governor, at the end of the ten years the State will still own this mansion. I hope the gentleman is answered. That is very different, Mr. President, and delegates of this Convention, from paying out the $2,000 annually, and the State have nothing to show for it—and even that should be left, in the condition in which we are placed, to the discretion of the Legislature. Tennessee has a salary of $4,000; South Carolina has a salary of $3,500—I did not see the last Code. The salary of Georgia's Governor, $3,000; Arkansas, the salary, $3,000. Georgia has a furnished mansion, and Georgia owns it; the Governor does not own it. When Alabama procures a mansion, it will belong to the State.

MR. SAMFORD—How about the incidental expenses, Judge?

MR. COLEMAN—The gentleman says how about the incidental expenses? I presume that depends very much upon the Governor. We have been told in some instances that they have expended from $4,000 to $5,000 out of their pockets for incidentals or something, I don't know what; anyhow, it has been expended, but even that does not reach the question. Why should not that

be left to the Legislature? In West Virginia, the salary is $3,700. In Mississippi, in 1892, $3,500.

MR. deGRAFFENREID—And a mansion.

MR. COLEMAN—That, gentlemen, gives you an idea of what other States are doing in fixing salaries for their Governors, and why should Alabama ordain here that the salary of the Governor should be fixed at $5,000. Why not leave it in the discretion of the Legislature, and let the Legislature increase that salary as the revenues of the State will justify it? I have said again and again, that if we adopt this resolution, we will transgress the authority supposed to be vested in us by the election of this body. I repeat, it was not discussed before the people, and they have and do expect that we attend to the important duty of the franchise, and they circumscribed us in all other respects as to the limits that we should go. We notice—and I call your attention to it—the continuous efforts being made to impress this Convention with the idea that the platform and the pledge was unfortunate; that we should not be bound by it. I don't know where gentlemen get authority to disregard a pledge upon which they were elected. I had never heard it asserted by any true Democrat before. Why are we not bound by the pledges? Were they not the express will of the people at that time?

MR. OATES—If you won't mind an interruption, I can give you a very illustrious case: Cleveland was elected on a platform which required the repeal of the 10 per cent. tax, and the first man I heard speak out and say that he was not bound by it, was W. J. Bryan.

MR. COLEMAN—And where is W. J. Bryan today? (Laughter.) And perhaps—and I mean nothing personal about it—perhaps he who has mentioned him here as an example for us has been following his ways most closely himself.

Have not you been patterning after Mr. Bryan a little too closely yourself.

MR. OATES—I don't know what in.

MR. COLEMAN—The gentleman says "I don't know what in." I don't know but I simply apply the old rule that like causes produce like results. Now, Mr. President, I trust that every delegate upon this floor will cast his vote remembering his duty as a Democrat and his duty to the State, and that is all that I ask.

MR. KNOX—I had not intended, Mr. President, after the discussion on yesterday to renew it this morning. The gentleman from Greene made two arguments on yesterday, but it seems he was not satisfied with the case then made, and he makes another one this morning. I do not understand what he means by gentlemen buttonholing delegates. Does he mean that when an impor-

tant matter is pending before this Convention, that delegates to this Convention are not authorized to discuss those questions except upon the floor of the Convention? I remember when an important matter was pending before the Committee on Suffrage, of which the gentleman is the distinguished Chairman, and there was not entire harmony in that committee, no gentleman was more active in buttonholing delegates than the distinguished gentleman from Greene.

Mr. President, the gentleman objects to increasing the salary of the Governor because the question was not submitted to the people, but I remember that in the Constitutional Convention of 1875, when the salaries of the Judges of the Supreme Court of this State were reduced to three thousand dollars, just the same amount at which the salary of the Governor was placed, that the Legislature increased the salary of the Supreme Court Judges of which the distinguished gentleman enjoyed the benefit for quite a number of years, and we never heard, Mr. President, that that was unlawful because it had not been submitted to a vote of the people.

MR. COLEMAN (Greene)—I did not understand the remark —I did not catch it.

MR. KNOX—I said, and I was arguing that it is competent for a Legislature and it is competent for a Constitutional Convention to pass upon questions when they arise before it without submitting them to the people.

MR. COLEMAN (Greene)—With your permission—I understood you to make some reference to some gentleman not complaining at an increase of the salary.

MR. KNOX—I did not individualize any gentleman, but stated that when the salaries of the Supreme Court Judges of this State were increased from three thousand dollars, I never heard it objected that it was improper for the increase be made because the question for a vote upon the direct issue.

The gentleman from Greene occupied the office of Solicitor in this State for quite a number of years, in one of the most important districts in the State. It was before the salary system went into effect. And it is generally understood that the solicitorship in that territory was worth from five thousand to ten thousand dollars a year. The gentleman, I believe, retired from the office after it was reduced, or just before it was reduced to three thousand dollars.

It seems to me, Mr. President, that the people of Alabama ought to be willing and I am sure they are willing to pay the Chief Executive of this State a decent salary. Suppose the salary is increased. Why, it would raise the taxes per capita less than one cent. And where is the patriotic citizen of Alabama— a delegate suggests it would not be that much—I am sure it would not be

more, but where is the patriotic citizen of Alabama who is not willing that the Chief Executive of this State should be able to hold up his head—should be so equipped as that he can sustain the dignity of the State. I argued yesterday, and I repeat it, if it was competent for the Constitutional Convention of 1875, when the people were prostrate and financially embarrassed, to reduce the salaries, it is competent for the delegates to this Convention to give expression to an opinion that this salary should now be increased. You have refused to increase it. A number of delegates upon this floor voted against an increase because they thought it was the proper province of the Legislature. I submit that it is competent in view of that action which you have taken rather than give color to the idea that you are opposed to fair and proper compensation, you should give expression to the opinion that you think the Legislature, to whom you refer the matter, should increase it provided it can be done without increasing taxation. I do not believe, Mr. President, that in any part of this State there is any sentiment among the people which would withhold the granting of a just increase. The salaries of the Judges of the Supreme Court have been increased, why not increase the compensation of the Chief Executive, who represents the dignity of the State, who is subjected to many more expenses than the Judges of the Supreme Court. The reports that come to me from different counties in this State since this discussion has reached the people are to the effect that the people favor and want some increase made. Whatever we do will be submitted for the approval of the people. We are here as their delegates and whatever we do we will submit for their ratification; but we ought not to fail, Mr. President, to do what we think is right and then submit it to the approval of the people. The passage of this resolution will not put it into the Constitution. It is not a part of the organic law. It is merely an expression on the part of the delegates to this Convention that in our judgment this increase should be made in the Governor's salary, if in the judgment of the Legislature it can be done without increasing taxation and Mr. President, as this discussion has been protracted to such length, unless the gentleman from Greene desires to further discuss it, I move the previous question.

THE PRESIDENT PRO TEM—The gentleman from Calhoun moves the previous question unless the gentleman from Greene desires to be heard further. The Chair recognizes the gentleman from Greene.

MR. SAMFORD—I rise to a point of inquiry. I have the right to do that.

THE PRESIDENT PRO TEM—The gentleman will state the point of inquiry.

MR. SAMFORD—My recollection of the rule is that no delegate shall be permitted to speak more than twice on any point.

THE PRESIDENT PRO TEM—I think there is such a rule, but the Chair does not understand that the delegate from Greene has spoken twice on this question. But he spoke yesterday on the motion to lay on the table and today he is speaking on the amendment which he offered.

MR. SMITH (Mobile)—I rise to a point of order.

THE PRESIDENT PRO TEM—The gentleman will state his point of order.

MR. SMITH—No two amendments were offered. The amendment of yesterday was corrected and there was unanimous consent that he might correct a clerical error, as I understand it, at any rate no amendment. The rule provides a mover may speak twice, no other more than once—the gentleman has spoken three times.

THE PRESIDENT PRO TEM—The Chair will state his understanding: When the gentleman from Greene stated that he had inadvertently made errors in the drawing of his amendment the Chair stated that to correct it it would have to be done by amendment or unanimous consent. If it had been a matter of right the Chair would not have required that he obtain unanimous consent, because in the opinion of the Chair no change could be made except by way of amendment.

MR. KNOX—I earnestly request the gentleman from Mobile (Mr. Smith) to withdraw his objection and allow the gentleman from Greene to be heard.

THE PRESIDENT PRO TEM—The Chair overrules the point of order because the Chair consider the correction asked to be made by the gentleman from Greene was an amendment.

MR. COLEMAN—Mr. President, I do not wish to be regarded as making a speech, but as making a request; there may be other gentlemen upon this floor much more able to present this question than myself; I do not wish to have them excluded, but if they are not permitted. I claim my right to reply.

MR. KNOX—The time of this Convention is too valuable to be consumed in further discussion of this question. I did not press the call for the previous question, because I desired to hear from the gentleman from Greene, if he desired to discuss it further. He will be entitled to speak if he wishes, but I thought it would be more satisfactory for him to make his argument at this time. I renew my motion for the previous question.

THE PRESIDENT PRO TEM.—As the chair understands the rule, after the previous question has been ordered, it will then be in order for the gentleman to close.

MR. JENKINS—The gentleman from Greene has never given up his right to close.

THE PRESIDENT PRO TEM.—The chair will hold that the gentleman from Greene, as the mover of the amendment, will have the right to close the debate after the previous question shall have been ordered. The question is, Shall the main question be now put on the amendment, or on the amendment and report?

MR. KNOX—On the amendment and report.

A vote being taken, the previous question was ordered.

MR. COLEMAN—Mr. President and delegates to the Convention, some of the remarks of the distinguished President of this Convention had a double effect upon me. I regretted that he saw proper to refer to me, especially individually, but it was gratifying to know that he did not have much else to say in support of his proposition. I was arraigned here for resigning my office as solicitor to accept that of Chancellor. The salaries were about the same, and I preferred to move upwards, and did the best service for the State that I knew how. It is said that whatever we do here must be submitted to the people. There I wish to make this statement, that if any delegate upon this Convention thinks he can tie on to this Constitution unnecessary burdens and weights—that it will be carried through anyhow—they are laboring under a great mistake. We come here for relief from my section of the country.

MR. BOONE—Will the gentleman allow me to ask him a question?

THE PRESIDENT PRO TEM.—Will the gentleman allow himself to be interrogated?

MR. COLEMAN—I hate to be discourteous to anybody.

MR. BOONE—Will the gentleman from Lauderdale (Mr. O'Neal), if passed by this Convention, be a part of the Constitution to be submitted to the people?

MR. COLEMAN—That is a very unfair way of putting the proposition. I was going on to mention the fact—because we are just in the beginning; we are right now at the threshold of adopting a Constitution for the State of Alabama. If you lay down a precedent now, it is sure to be taken advantage of by other resolutions or ordinances to increase other salaries. Mark well the statement. If we burden this Constitution with unnecessary weights, it is my honest opinion, it will not be ratified. As I started to say, my section of country needs relief, great relief, but gentlemen must not think that we will sacrifice everything else, and particularly the pledges made to the Democratic party in or-

der to get that relief, unless you give us a Constitution that we can live under, and that comes squarely and fairly up to the provisions and agreements we made by which this Convention was held, it is my opinion that it will not be. I fear the delegates do not understand sufficiently with what they are tampering, with what we may lose; and, delegates of the Convention, it is the beginning and inauguration of a precedent that may lead to disastrous results. I have said all upon the other proposition that I saw proper to say, except that I call your attention to the fact that my statement as to salaries of Governors of other States was not questioned, although I asked to be corrected if there was any State in the Union of similar population and revenues that paid its Governor $5,000.

THE PRESIDENT PRO TEM.—The question is upon the adoption of the amendment offered by the gentleman from Greene, with the resolution reported by the committee of the gentleman from Morgan.

MR. JENKINS—Upon that I call for the ayes and nays.

A vote being taken the previous question was ordered.

THE PRESIDENT PRO TEM.—The question is on the amendment of the delegate from Greene.

The yeas and nays being called and the call sustained, the result of the roll call was as follows:

AYES.

Ashcraft,
Barefield,
Bartlett,
Beavers,
Blackwell,
Browne,
Bulger,
Byars,
Cardon,
Carnathon,
Case,
Chapman,
Coleman, of Greene,
Cornwall,
Davis, of DeKalb,
Davis, of Etowah,
Fletcher,
Foshee,
Freeman,
Glover,
Grayson,
Greer, of Perry,
Handley,
Harrison,
Henderson,
Hodges,
Jackson,
Jenkins,
Kirk,
Long (Butler),
Long (Walker),
Miller (Marengo),
Moody,
Mulkey,
Murphree,
NeSmith,
Opp,
O'Rear,
Palmer,
Parker (Elmore),
Pearce,
Pettus,
Phillips,
Porter,
Reynolds (Chilton),
Reynolds (Henry),
Rogers (Sumter),
Sentell,
Sloan,
Smith, Mac. A.,
Sorrell,
Spragins,
Stewart,
Studdard,
Vaughan,
Williams (Barbour).

Total—56.

NOES.

Messrs. President,	Hood,	O'Neal (Lauderdale),
Almon,	Howell,	O'Neill (Jefferson),
Banks,	Howze,	Parker (Cullman),
Beddow,	Inge,	Pitts,
Bethune,	Jones, of Bibb,	Proctor,
Boone,	Jones, of Hale,	Reese,
Brooks,	Jones, of Montgomery,	Robinson,
Burnett,	Jones, of Wilcox,	Rogers (Lowndes),
Burns,	Knight,	Samford,
Carmichael, of Coffee,	Kyle,	Sanders,
Cobb,	Ledbetter,	Sanford,
Cofer,	Leigh,	Selheimer,
Craig,	Locklin,	Smith (Mobile),
Cunningham,	Lomax,	Smith, Morgan M.,
Dent,	Lowe (Jefferson),	Tayloe,
deGraffenreid,	Lowe (Lawrence),	Thompson,
Duke,	Macdonald,	Waddell,
Eley,	McMillan (Baldwin),	Walker,
Espy,	McMillan (Wilcox),	Watts,
Fitts,	Malone,	Weakley,
Foster,	Martin,	White,
Graham, of Montgomery,	Maxwell,	Whiteside,
Graham, of Talladega,	Miller (Wilcox),	Willet,
Grant,	Morrisette,	Williams (Marengo),
Greer, of Calhoun,	Norman,	Wilson (Clarke),
Heflin, of Chambers,	Norwood,	Wilson (Washington),
Hinson,	Oates,	

Total—80.

ABSENT OR NOT VOTING.

Altman,	Heflin, of Randolph,	Searcy,
Carmichael, of Colbert,	King,	Sollie,
Coleman, of Walker,	Kirkland,	Spears,
Eyster,	Merrill,	Weatherly,
Ferguson,	Pillans,	Williams (Elmore),
Gilmore,	Renfro,	Winn.
Haley,		

MR. BURNS (during roll call)—With a view of moving a reconsideration I vote no.

So the amendment was lost.

MR. deGRAFFENREID—I move the adoption of the resolution offered by Mr. O'Neal.

THE PRESIDENT PRO TEM. — The previous question was ordered upon the original resolution, as well as the amend-

ment. The question is on the adoption of the resolution offered by the gentleman from Lauderdale.

MR. JACKSON—Am I too late to offer an amendment?

THE PRESIDENT PRO TEM.—Yes. The previous question has been ordered.

Upon a viva voce, the resolution was adopted.

THE PRESIDENT PRO TEM.—The Clerk will read the next section of the report of the committee.

MR. SAMFORD — I rise to a point of inquiry. Does that take precedence over the regular order?

THE CLERK—This is a part of the report.

THE PRESIDENT PRO TEM. — The Chair understands this is the report of the committee on the matter recommitted to it and the question is upon the adoption of the report of the committee as to this section.

MR. JONES (Montgomery)—I ask unanimous consent in order to favor my friend from Sumter, who has an ordinance on this subject, which the committee reports adversely, to report it back now so that it may be considered along with this section.

THE PRESIDENT PRO TEM.—Unless there is objection the committee will be allowed to make the adverse report.

The report was read as follows:

Mr. President:

The Committee on Executive Department direct me to report herewith ordinance No. 372, with the recommendation that it do not pass.

Thomas G. Jones, Chairman.

MR. ROGERS (Sumter) — I desire to have the ordinance read and I move that it be substituted for the report of the committee.

The ordinance was read as follows:

Ordinance 372, by Mr. Rogers of Sumter:

The returns for every election for Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Education and Commissioner of Agriculture and Industries, shall be sealed up and transmitted by the returning officers to the seat of government, and directed to the Speaker of the House of Representatives, who shall, during the first week of the session, to which such returns shall be made,

open and publish them in the presence of both houses of the General Assembly in joint convention; but the Speaker's duty and the duty of the joint convention shall be purely ministerial.

The result of the election shall be ascertained and declared by the Speaker from the face of the returns without delay.

The person having the highest number of votes for any one of said offices shall be declared duly elected, but if two or more persons shall have an equal and the highest number of votes for the same office the General Assembly, by joint vote, without delay, shall choose one of said persons for said office.

Contested elections for Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendant of Education and Commissioner of Agriculture and Industries shall be determined by both houses of the General Assembly in such manner as may be prescribed by law.

MR. SAMFORD—I ask for a reading of the report of the Committee.

THE PRESIDENT PRO TEM—The gentleman from Sumter has the floor. If he will yield—

MR. ROGERS (Sumter)—I consent to the reading of the report of the Committee. I would like very much to have it read in this connection.

The report was read as follows:

The Committee on Executive Department instructs me to report the following substitute for Section 4 of the ordinance "to create and define the Executive Department," and the pending amendments, to wit:

Strike out Section 4 as it now stands and insert in lieu thereof the following words:

"Sec. 4. The returns of every election for Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education and Commissioner of Agriculture and Industries shall be sealed up and transmitted by the returning officers to the Speaker of the House of Representatives, who shall, during the first week of the session to which said returns shall be made, open and publish them in the presence of both Houses of the General Assembly, in joint Convention. The joint convention shall supervise and control the Speaker in the discharge of this duty and has power, first, to determine whether the returns are in legal form, made by the proper officers, and truly give the results as ascertained and declared by the Board of Supervisors in the several counties; second, to correct such errors as may be found therein; third to

procure proper returns when, for any cause, returns from any county have failed to reach the Speaker. The joint convention shall have no power to question the returns as to any other matters, or in any other respect. The person found to have the highest number of votes for either of said offices shall be declared duly elected; but if two or more persons shall have an equal and the highest number of votes for the same office, the General Assembly by joint vote, without delay, shall choose one of said persons for said office. Contests of elections for Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education and Commissioner of Agriculture and Industries, shall be determined by both Houses of the General Assembly in such manner as may be prescribed by law.

The Committee recommends the adoption of the substitute.

Thomas G. Jones, Chairman.

MR. ROGERS (Sumter)—The original Section was recommitted to the Executive Committee with the hope that they would return a Section which would at least remove the objections that exists to the Section as first reported. Instead of removing the objections, they have intensified them, by that part of the Committee's report which begins and reads as follows: "The joint convention shall supervise and control the Speaker in all discharge of this duty, and has power to determine whether the returns are in legal form, made by the proper officers and truly give the results as ascertained and declared by the Board of Supervisors in the several counties; second, to correct such errors as may be found therein; third, to procure proper returns, when for any cause the returns from any county have failed to reach the Speaker; the joint convention shall have no power to question the returns as to any other matters or in any other respect.

Now, Mr. President, I submit in what other matters would the joint convention have the right to question the returns? The laws of this State provide that the ballots shall be counted in the counties where they are cast, by the Probate Judge, the Clerk and the Sheriff, and if they are all of one party that they shall summon three other persons of a different party to be present, to hear the returns; that these officers shall certify the result, and send it sealed to the proper officers at the State Capitol. It further provides that if any one wants to contest any election, he shall give bond and shall make his case before the joint convention of the General Assembly, the Senate and House, but the functions of the Speaker of the House, in the joint convention, and those of the joint convention, when this body is first assembled, should be purely ministerial. That is to say, they should perform their duties, which are set out for them by law, and they should not go behind any returns, without there be sufficient

evidence brought before them, by a proper person contesting the returns.

It so happened, several years ago, when the lamented and distinguished Francis L. Pettus was Speaker of the House of Representatives, that this very question, which these gentlemen wish to open up, came before him. He then wisely and justly decided that the power of the Speaker was purely ministerial, and that he had no right to go behind the returns, but that his duty was to declare the result of the election as it appeared upon the face of the returns. Now, Mr. President, this seeming not important matter is one that is far-reaching. The intent or the result of it will be to destroy the autonomy of the several counties of the State of Alabama, or will do away with local self-government; because if it ever happened that the Speaker elected and that a majority of the General Assembly of Alabama should come here and wish to destroy the will of the people, all they have to do is to say that these returns are not proper; all they have to do is to say that the returns are not in accordance with the will of the people, and throw them out, and put anybody in office they may wish to.

Why, Mr. President, there is no question but what this last report is infinitely worse than the first. They did have the grace to say in that, that the duties of the Speaker shall be purely ministerial, but that did not go far enough, and say that the duties of the convention shall be purely ministerial, but in this latter report, they have left out the word "ministerial" entirely. They have given the right to the Speaker and the Joint Convention to say whether the returns are proper or not. Why, Mr. President, it is one of the greatest innovations that has ever been made in the mode of canvassing the returns of elections in this State. Now in that Section, if you will notice my amendment, is the whole Section given in the last code, with this exception, that it clearly sets out the power of the Speaker and of the Joint Convention. In my amendment it is true that I wrote the whole ordinance because it was to be substituted for the one offered by the Committee, but the only change that I made was to clearly define the point passed upon by Speaker Pettus, so as to put it clearly out of the power of any one hereafter to overthrow that decision, namely, "but the Speaker's duty and that of the Joint Convention shall be purely ministerial;" and that the Speaker shall ascertain the result of the election from the face of the returns, and publish the same without delay. Now, Mr. President, if any one then wishes to contest an election, the law provides in Section 1667 for a contest, and all he has to do then is to come with the proper evidence before the proper tribunal, and have the case tried, and not come where there will be no evidence submitted, because it is not contemplated in this Section that any evidence shall be submitted to the Joint Convention and the Speaker. It

simply says that the result of the election shall be transmitted in sealed envelopes to the proper officials.

MR. JONES (Montgomery)—I shall very briefly state the reasons of the Committee for not adopting the suggestion made by my friend from Sumter. The present Constitution, as we all know, left open to discussion wide differences of opinion as to the power of the Speaker. It was sometimes contended that the two Houses were mere witnesses; that the Speaker alone opened and declared the result. A contrary view was asserted. In the original section, the Committee thought it wise to declare that the Speaker on that occasion, was the servant of the joint convention. It went no further, because it believed that there were contingencies which might arise, where it was better to leave the 133 men, who compose the two Houses and represent the sovereignty and power of Alabama, some discretion, than to put them in a straight jacket, where they had none at all. There is no question that has given courts greater trouble than defining the shadowy line that separates ministerial power from judicial power. The Supreme Court of this State, even within the last thirty years, has reversed its rulings on this subject, finally declaring powers were judicial, which formerly it held to be ministerial.

MR. ROGERS (Sumter)—May I ask the gentleman a question.

MR. JONES—Certainly.

MR. ROGERS (Sumter)—I will ask you why you put the word "ministerial" in the first report and left it out of the last?

MR. JONES (Montgomery)—Because we simply referred to the Speaker then. When we put in the substitute that the joint convention should supervise and control him, then we harnessed him up, and put him in the power and control of the Convention, and we thought it wise not to use the word "ministerial"—as I was proceeding to explain to my friends when he asked his question.

Now, there is a decision of the Supreme Court of Alabama, made some twenty-five years ago, and which is still the law, in which Chief Justice Brickell says: "It may not always be easy to ascertain the real character of the power entrusted to a judicial or ministerial officer. When the power is clearly defined and enjoined, does not involve the exercise of the discretion or judgment, and no alternative is left to the officer charged with its execution: when he must act without inquiry, without evidence, and the mode of the action is expressly declared, the power is purely ministerial. When, however, the power involves the exercise of judgment and discretion, when it has to be exercised only in an ascertained event, and on the occurrence and existence

of particular facts, and the officer charged with the execution of the power must determine whether the event has arisen, or the fact exists, requiring its exercise, then the power is judicial, or in its nature judicial."

Bearing this definition in mind, the Committee did not wish to use the word "ministerial," and deliberately rejected the suggestion that the Joint Convention of Alabama could be put in a straight jacket, bound to count any returns that came up here, no matter what questions arose, after the result was declared in the counties below.

Let us see, Mr. President, what might arise before this Joint Convention. A gentleman sends up the returns and says this is the returns from my county, the one you have is a forgery. The Joint Convention must decide that question. They must decide which is the true return. They exercise and must exercise judicial power in that regard.

Then, again, Mr. President, suppose some member of the Joint Convention says, "Mr. Speaker, when the result was declared in my county, John Brown had only a thousand majority; that is an admitted fact, but these returns have been tampered with, and, in order to change the result of the election in Alabama, it is now stated that Brown had two thousand majority." We did not wish to have the representatives of the people of Alabama in joint convention made so impotent that by the very letter of the Constitution that they are bound, in the first instance, to bow to a fraud, because it was in the form of a return. The committee considered some other matters in this connection. There is a penalty, I believe, of $250 on the officers for not making the returns. We must consider and provide for all contingencies that may arise. Suppose there is a close election in Alabama, and a partisan board, of either party, declines to send up the papers. There is no return before the Joint Convention from that county. Is the Convention to be bound and shackled like a slave, and compelled to declare the result on the face of the returns they have, though by that act they reverse the will of the majority of voters in the State?

I remember seeing a Governor's private secretary, some ten or fifteen years ago, in great distress, and I asked him what was the matter. He said, "I am afraid I have lost the Government." These returns came in here, some in August, and along at different times. I have filled up one pigeon-hole with the first batch of them. There were eight or ten other returns sent here, which I cannot find. I do not know what to do; the count comes off in a day or two. I have not time to write and get new returns." If the Joint Convention is put in a straight jacket, after the plan of my friend from Sumter, this Convention, representing the sovereign people of Alabama, which also decides a contest when one is

waged, would, in a case like that, if the missing returns had not been found, have to sit here like a set of dummies. They could only say, "Yes, Mr. Speaker, the Constitution fixes your duty to be merely of announcing the result on "the face of these returns," although some are missing. The will of the people might be defeated by compelling this joint convention to go ahead, when it did not have all of the returns.

MR. WALKER—Will the gentleman allow me to ask a question?

MR. JONES (Montgomery)—Certainly.

MR. WALKER—Is not the effect of the provision, as reported by the committee, to put it within the power of the joint convention to make itself the Canvassing Board, to count the returns from every County in Alabama, and ignoring the returns as set up here?

MR. JONES (Montgomery)—No sir. The provision is that their functions are confined in that particular matter, to ascertaining that the returns sent up here were the returns declared below. No matter how fraudulently it may have been made, the joint convention cannot go beyond that. They can see, however, that the returns sent them truly declare the returns as made by the Supervisors in the several Counties. It is specially provided that the Convention is confined to the particular powers specifically defined in the section, and shall not question a return in any other respect or in any other matter. I think if my friend will look at that he will see it is not susceptible to the construction he places on it.

MR. WALKER—Under one of the clauses which I see here the convention can correct any errors in the returns, and if they can do that, they change the result.

MR. JONES (Montgomery)—They can correct an error and change the result if it was based in error. That is right and is only carrying out the will of the people as declared in 1872, when what was called the Capitol Legislature had the returns. By the oversight of the clerk who made out the returns, they gave in one County a large majority that the Republican Treasurer and Auditor had received to the Democrat candidates who had not received those votes. It was a notorious fact that that was not the result that had been declared below. The Capitol Legislature, respecting the known will of the people, corrected the error in the returns. Now I know my friend from Madison, if an election was to be determined on the figures in a return, would not want to put the convention in such a straight jacket in such a case as that that it could not, if need be, examine witnesses, not as to whether the return was fair, not whether the election was fair,

not whether the result was affected by fraud — none of these things—but, gentlemen, what was the result declared? The joint convention should not be powerless to correct the slip of a pen, which might change the destiny of the State.

Ought not the convention to have the power to inquire whether the return has been tampered with in the mails, or by others in whose custody they are before delivery to the Speaker?

The section is carefully guarded, Mr. President, to prevent the General Assembly from being a returning board. If we are to trust returning boards, which will you trust? Shall it be a returning board composed of one hundred and thirty-three representatives of the State of Alabama, or some returning board in some County in the State who know they could affect the result by sending a fraudulent return here—if the convention could not inquire into it, not into the validity of the election, but into the declaration as made?

Now let us see, Mr. President, if it is possible to misunderstand this. After saying that the returns shall be sealed up and transmitted, and so on, it says; the joint convention shall supervise and control the Speaker in the discharge of those duties—that is whatever he has to do. And it has the power, first, to determine whether the returns are in legal form, made by the proper officers, and truly give the result as ascertained and declared by the Board of Supervisors in the several Counties. What objection can there be to that?

MR. JENKINS—To what does the word "truly" there, refer?

MR. JONES (Montgomery)—It is intended to cut out forgeries—as to whether the returns show "truly" what was declared in the several counties.

MR. JENKINS—Does it refer to the return? Does it mean whether the returns give truly the result or does it refer to the declaration of the Board of Supervisors?

MR. JONES—Whether they truly give the results as ascertained by the Board of Supervisors.

MR. JENKINS — Does that refer to the returns or to the Convention?

MR. JONES (Montgomery)—It refers to true returns sent up here, whether they give the facts as declared by the several Boards of Supervisors. There is no possible ground for doubting to what they refer.

MR. JENKINS—It does not refer to the Convention, then?

MR. JONES (Montgomery)—No, sir, and it cannot have that meaning. The context and grammar absolutely forbid it. "The

Joint Convention has power, first to determine whether the returns are in legal form, made by the proper officers." The Convention is bound to pass on these things, and those things are matters which, the Supreme Court says, involve discretion and are judicial in their nature. If you put the gentleman of the Joint Convention in straight jackets by using the word "ministerial," pieces of paper would make your Governor; the Convention and the Speaker would both be dummies, and could not exercise their minds or judgment in any respect, or correct any error, or do anything else except automatically add up the returns sent up here to them.

Suppose the Capitol were to burn down after the August election, in the month of September or October, and the Joint Convention had only the few returns saved from the fire, is the Joint Convention to go ahead and count in whoever has the majority on the face of the returns from the few counties they have, when, as a matter of fact, those people have received only a small minority of all the votes? Ought not the Joint Convention to have the power to say, "We have no returns from such and such a county. We will get the result as declared in the missing counties, and give declaration in favor of the men who have received the majority of all the voters of the State?"

If there is, which we deny, any feature of a returning board, we have carefully cut off power to defeat the will of the people. It is expressly declared that the Joint Convention should not have the power to interfere with the returns in any other way, or as to any other matter, than those specifically named. If we must trust somebody what is the harm of trusting the 133 men of the two houses? They are the same men who determine the contest. At some stage or other of every function of government, somebody must be trusted in the first instance. I do not believe the time will ever come in the history of Alabama when 133 men, to whom are given the power to say whether the returns are genuine or whether they truly declare the result as declared in the several counties, and where there are errors in them, to correct them, will usurp the function of a contest board and practically decide a contest then and there. If they will do that under guise of correcting error, they will do it no matter what language you use. If they wish to do it they could arbitrarily throw out a return, on the pretext that it was not in legal form, or properly signed, or on any other pretext. If they do, where is your remedy? Whoever they declare elected can take his seat, and if they do that they can again cheat the will of the people on a formal contest.

The Committee has considered this matter very maturely and earnestly, with an anxious desire to put such provisions in the Constitution as will save trouble in the future, and at the

same time guard against a Returning Board, which would have power to contest the election as to its fairness, or for anything antecedent to the result as declared, and still leave the Board power to deal with fraudulent charges in the returns.

MR. OATES—I would like to ask the delegate from Montgomery a question. This proposition is not broad enough, as I understand from your statement, for the Convention to investigate anything except that pertaining to the returns; in other words, that nothing outside, in the election itself, could be investigated by the Joint Convention under this Section?

MR. JONES (Montgomery)—Certainly. For example, if the returns from Montgomery County showed that William C. Oates had received 5,000 votes, and some member got up and said "That is a mistake, the returns as declared by the Board of Supervisors showed that he had 7,500 votes," under the Section the Joint Convention could ascertain what was declared by the Board of Supervisors of Montgomery County. By that they would be bound, as the gentleman from Sumter desires, to count the figures sent up, if they contradicted the figures below.

MR. BURNS—Will the distinguished gentleman allow me to worry him with a question?

MR. JONES—I will in a minute, just as soon as I finish answering the inquiry just propounded by the gentleman from Montgomery.

Here is the language to which I wish to call attention: "The Joint Convention shall have no power to question the returns as to any other matters or in any other respect." The article clearly defines what they are to do. Is there an error in the figures? If it is claimed there is, the Convention has a right to inquire into that, and see if the figures returned to them are or are not different from those announced in the county by the Board of Supervisors. By those figures, as declared in the county, they are absolutely bound. Now, I will answer the gentleman from Dallas with great pleasure.

MR. BURNS—In case there is no Speaker of the House, is there any provision as to who shall open the returns?

MR. JONES—There is no specific provision in that respect.

MR. BURNS—Do you think the section is strong enough without that?

MR. JONES—I think it would be wise to add to the section, "or Speaker pro tem in the absence of the Speaker."

MR. BURNS—Now, I ask the privilege of worrying you with a few questions.

MR. JONES—No worry at all.

MR. BURNS—Take line 8 in this printed report.

MR. JONES—What we are considering is the substitute offered for that; not the printed copy from which you are reading.

MR. BURNS—Then any question in regard to the printed section would be out of order?

MR. JONES—Yes, we are not considering that. There is a substitute for that. I will now take pleasure in answering my friend from Chambers (Mr. Robinson).

MR. ROBINSON—I did not want to ask any questions. I thought he had concluded, and I was trying to address the Convention.

MR. COLEMAN—I would ask the chairman of this committ if this provision of his does not confer judicial power upon the House.

MR. JONES—Unquestionably it does, and was intended to do so, but in the three particulars named in this substitute. It is expressly denied any power save in the instances named.

MR. COLEMAN — They are to judge and determine for themselves whether there are any errors and as to the correction of them?

MR. JONES—Whether the returns are genuine.

MR. COLEMAN—Correct such errors as may be found. They are made the judges of whether there are errors and they are to correct them?

MR. JONES—Unquestionably.

MR. COLEMAN—Then they act judicially under this instead of ministerially?

MR. JONES—Yes; and we were afraid, if we put the word "ministerially" in there, they would be put in a straight jacket and could not correct a manifest or plain error, or a fraudulent alteration in the return, after it was made.

MR. HARRISON—Will the gentleman permit a question?

MR. ASHCRAFT—May I interrupt the gentleman with a question?

THE PRESIDENT PRO TEM.—Will the delegate yield for a question?

MR. JONES (Montgomery)—To either one of them; but not to the two at the same time.

MR. HARRISON—Would it not be better, instead of saying "to correct such errors as may be found there" to make it "to permit such errors as may be found therein to be corrected?"

MR. JONES (Montgomery)—Is not that the same thing?

MR. HARRISON—Permit them to be corrected by the County Board; or do you intend that the Joint Convention shall act judicially and correct the errors?

MR. JONES (Montgomery)—What the committee intended was, in view of the decision of the Supreme Court, to give this Board, or Joint Convention, the power to judicially determine when the returns were sent up, whether they were true returns, whether in proper form, signed by the proper officers, and whether the returns tally with the declaration made by the Board of Supervisors of the county at the time the votes were counted and the result declared, and if there were errors in the returns—not frauds in the election or wrongs of the election officers—to give the joint convention power to correct such errors.

I take it for granted if there was a gentleman on the floor of the Joint Convention who said there was an error of five hundred votes in the returns sent up from his county, and there was no dispute about it, the convention would correct it by common consent, as they did in 1872; but if it was disputed, they would send a committee of the body to examine into the matter, or summon before them the supervisors, and say to them, "You have given this man so and so many votes—is that a mistake? Everybody else running on that ticket got nine hundred votes?" If they answer, "Yes, that is a mistake," then the Convention would correct it. If they testify "No, that is not a mistake," then the Joint Convention would not change it.

The committee was afraid if they used the word "ministerial" purely, it would make a set of dummies of the 133 men of the two Houses, and put it in the power of any County Board of Supervisors by sending up a return, which fraudulently contradicted the result as declared by them below, or which had been tampered with in the mails to change the result, and compel the convention to make a declaration of election in favor of a men who was not elected.

All of us know that in times of passion and political excitement, good men do a great many things they afterwards regret. Some men get so fanatical that they think they are doing God's service when, no matter how or by what means, they down a political opponent. Take a close election in the State where the vote of one County would decide it, and turn over the political power one way or the other, under the plan proposed by the gentleman from Sumter, a Board ot Supervisors of three men, even after the result had been declared in their County could give a

man ten thousand votes when he didn't have but fifteen hundred, and when it was notorious that it controlled the result as declared below, and thus the will of the people could be overthrown by three men. Is it not better to insert one hundred and thirty-three?

MR. ASHCRAFT—Will the gentleman allow an interrogatory right here?

MR. JONES—Certainly.

MR. ASHCRAFT—You have approached precisely the point about which I desire to ask a question. The safeguards which have been thrown around the holding of an election and the making of returns are such as to bring the returns to the Speaker of the House presumptively correct. Now, in the heat of this political condition to which you refer, you say the Board of Supervisors may certify and return a party as having received five thousand votes when he only received three thousand.

MR. JONES (Montgomery)—And when they declared he had only received three thousand when the result was announced.

MR. ASHCRAFT—As I say, the returns come to the Speaker presumptively correct, and suppose a member of that one hundred and thirty-three stands up and says, "Mr. Speaker, those returns are not correct." They are presumptively correct before the Speaker. The House constitutes itself into a returning board. Now, will it do that without giving notice to the parties who are interested, and if it must give notice to them in order that justice may be done, does not that incidentally place it where the body is under a later clause of this report which provides for contests in the regular form of law?

MR. JONES (Montgomery)—There is only one way to make a contest and that is to contest the result that is declared by the Speaker of the House or the presiding officer of the two houses. When that is done the question of a contest comes in, but before a declaration is made, there cannot be any contest, strictly speaking, in a legal sense, the contest to which the Constitution refers.

MR. ASHCRAFT — Then the gentleman maintains that the House ought to have the authority to change what is presumptively correct and declare another persons elected and without giving the man who is deprived of that presumption any opportunity to be heard.

MR. JONES (Montgomery)—No, sir; if the gentleman will pardon me, I said nothing about putting a man out without giving him notice. The Committee thought that the one hundred and thirty-three men who were supposed to be representing different parties, would at least act fairly and decently. We could not undertake to prescribe in the Constitution all the details for the action of a representative body of 133 men. In the case sup-

posed by the gentleman, I take it that members of the opposition party or friends of the officer affected would say, "Put that aside, see if it affects the result." And if they found it did affect the result, if necessary, they might delay the declaration as to that officer, and send a Committee to find out what the true return was or summon the officers of the County before them. I cannot understand the sensitiveness of the gentleman about trusting the Joint Convention in a matter of that sort. They are the men who have to decide the matter of a contest, and it certainly would be an unseemly thing for Alabama to say and to these 133 men, you must put men in office, who are not elected, simply because a supervisor, after a result was declared, stuck in a few more figures or forged the returns. If we cannot trust the General Assembly in joint convention to settle a matter of that sort properly, there is no use of talking about Constitution or fundamental laws.

MR. ASHCRAFT—Will the gentleman permit another interruption?

MR. JONES (Montgomery)—Certainly.

MR. ASHCRAFT—Don't the people of Alabama manifest their confidence in the General Assembly to determine the questions of the kind you mention fairly by providing they may entertain contests of elections.

MR. JONES (Montgomery)—Unquestionably, but that relates to other matters, to going behind the returns and inquire into the validity and legality and fairness of the election. This section does not propose anything of that sort, but simply gives the body the power to see that the processes which completes the election after the result declared below were fair and expressed the will of the people.

MR. ASHCRAFT—And to change the presumption of correctness without giving the parties interested notice.

MR. JONES—No, sir; it don't say that at all. It puts it in the power of this body to inquire and determine as to the correctness of the returns of the supervisors, but not to go into the validity of the election.

Now, Mr. President, I dislike to take up time on this floor about matters of law so well known, but must remark that an election consists of many processes. It does not consist altogether of putting ballots in a ballot box. There are after processes. The law exacts many safeguards, which are committed to different sets of officers. All these must be performed before there is any "election" to contest. The joint convention, under this section, deals in with addition, and ascertaining that the figures are in genuine returns, and that these returns have not been altered so as to show a different result from that declared.

In West Virginia, owing to a dispute about returns, the Joint Convention might do, to declare the result. The Supreme Court of West Virginia decided the only way they could know who was Governor of West Virginia, was by a declaration in Joint Convention of the legislature of West Virginia and as such declaration no matter what the reason—had not been made by the only tribunal entrusted with authority to declare the result, it could not say who had been elected Governor. How can you provide against such a refusal in the part of the Alabama Joint Convention? If you left it to court, it too, if all virtue is gone out of men, might refuse to make a declaration. You must trust somebody in the first instance. Is it not wise and proper to give the Joint Convention power to deal with everything which may be done to defeat the will of the people, after the result is declared? What may happen before the result is declared is entrusted to other officials. It is not proposed to touch their work or decisions. That and that only could constitute a returning board. Surely, if in the Joint Convention, a member should rise in his place and say this return, which it counted as it now is, will change the control of the legislature, executive and judicial department of Alabama, has been fraudulently altered or the clerks below made a mistake in addition and thus sent up the wrong figures—would it be wise policy not to allow the Convention to inquire as to the truth of such a complaint, and, if found to be true, not to permit the will of the people to be overturned by a fraud or a mistake. There is no ground for the fears of gentleman as to the will of the people being overthrown by the power given by this section. On the contrary it tends to secure the will of the majority against frauds and mistakes.

MR. BOONE—I rise for the purpose of supporting the substitute as offered by the gentleman from Sumter and I do it mainly upon these grounds. For over twenty-five years we have had a Constitution which provides that this power shall be ministerial.

MR. JONES—The present Constitution does not say a word about whether the power is judicial or ministerial.

MR. BOONE—Then I think it is our duty to make it clear on that matter, and I think the word "ministerial" should be here. From the debate that we have had here and from the argument the gentleman has made, and which will go as a light to the court in construing what we do, it will appear that the gentleman was careful in striking out that word ministerial to say that he would confer on the 133 men what? The supreme power to decide elections in this State. This Section says they shall correct any errors. As Judge Walker has pointed out and as my friend Judge Coleman has shown, that would confer on them judicial power.

It seems to me if we have struggled for anything in this State, it has been for the principle of home rule and if we are going to

have any set of men who are going to pass upon the integrity of our elections in our counties it should be under the eye of the people and the vote should be canvassed where the witnesses can be gotten, where all the facts and circumstances are readily accessible, and not take it away, as would be the case as to Mobile, 180 miles and equally far from other parts of the State. These witnesses would have to be coming up here to Montgomery at trouble and expense, away from their homes, for the purpose of answering these charges, and forsooth why? Because these 133 men said that according to this Section the return did not truly show what the vote had been in that county.

MR. JONES—Truly declare.

MR. BOONE — It is the same thing. It is nothing but a choice of terms. The legal effect is the same, whether it is cast or declared or whether it was not cast and they declared it was.

MR. JONES (Montgomery)—Would the gentleman think it wise policy to provide in substance in the Constitution if a return was shown to be forged to the extent of adding what would give a party not entitled to a majority, that the Joint Convention would have no power to inquire into that?

MR. BOONE—No, sir; I would not be in favor of any such a proposition, but that matter could be corrected as it is now. All those certificates are sent here in duplicate. It is hardly probable that both shall be forged and I think these matters should be decided in the local forum, so to speak.

Now, only one word more, and I am done, and that is this: We all know that in construing any statute or in construing any constitutional provision, one of the cardinal rules of construction is to look at the mischief to be remedied, the evil to be taken out; and when we come here we find in the Constitution whether the word ministerial was or was not in there we confer in effect as said by the gentleman from Greene judicial power upon this body. That is plain, and the gentleman admits that. But he says forsooth that these 133 men would be too good, too pure, too noble and too patriotic to put up any jobs in a matter of an election.

Unhappily we know that in our sister States that has not been the rule. Only a few years ago judicial power given to the Legislature to decide who was elected Governor of Kentucky almost brought about a war in that State and it cost the life of a man who was determined to be elected and there was a state of anarchy reigning in that commonwealth for months. I hope the possibility of such a thing will be forever kept away from the people of Alabama. I believe the substitute of the gentleman from Sumter clearly guards against any such danger, and I hope it will be adopted.

MR. SAMFORD — We have been in session lacking nine minutes of twenty-six Convention days—working days. To the minds of many of us and to the minds of the public we have accomplished very little and it has occurred to some of us that our sessions are either too short or too widely separated. The Committee on Rules reported the other day a rule requiring us to have an afternoon session beginning at 3 o'clock, and that was laid on the table until Thursday or such other time as the Convention should see proper to take it from the table. For the purpose of taking that report from the table I move that the rules be suspended and that subject be taken up.

THE PRESIDENT — The Chair is unable to see how the Convention is going to get rid of the pending question. The pending question is the substitute of the delegate from Sumter. It might be laid aside temporarily by unanimous consent.

No one objecting, the Chair took a vote on the motion of the delegate from Pike to suspend the rules, and the House refused to suspend the rules.

MR. PILLANS—Addressing myself to pending question. I think every member in this House must have in memory the infamous Returning Board that afflicted Louisiana a few years gone by and through Louisiana the United States, and produced the necessity for the Electoral Commission that settled the Hayes-Tilden contest. And I take it no man who bears in mind the evils the Returning Board produced at that time will want to see a Returning Board established in Alabama, in our State affairs. I know that my honorable friend from Montgomery, who has charge of the matter, is insisting and will continue to insist, until he goes down under the vote of this Convention, that he has not thought in this substitute a plan for a Returning Board, and I know he is honest in that contention; but every time he opens his mouth in justification of his plan he shows that he intends to give judicial power to the joint convention of the Houses.

In the argument which he has made, and very ingeniously made, in support of the substitute offered by the committee and against the substitute of the gentleman from Sumter, he has given us an illustration of the necessity of standing by the substitute of the gentleman from Sumter, if we wish to be rid of Returning Boards. For example, he said "Suppose the Montgomery County Board of Canvassers or Supervisors or whatever they are styled, count the vote of this County and makes a certificate to the Secretary of State and gives out publicly that there is a majority of one thousand for A. B. against C. D. for Governor of Alabama, and suppose when this is opened by the Speaker in the presence of the joint House it appears to be two thousand majority," now, he says, that ought to be inquired into by the two Houses and settled there; that if it is suggested there is an error and nobody

opposes the suggestion, it ought to be settled at once. Further on, in answer to some questions put to the gentleman, he says, "You can send it out to committees and take evidence." Right that moment he declares that he intends to have a Returning Board, nothing short of it. I wish to ask the gentleman if they desire such a thing?

MR. JONES—Is there anything now to prevent these 133 men if it is said the returns are not genuine to have that matter settled?

MR. PILLANS—Most assuredly there is.

MR. JONES—Have they not the right to see whether the returns are in proper form?

MR. PILLANS—I will answer that under the present Constitution, following the Constitution of the United States and the Constitutions of nearly all of the other States, the returns are supposed to be fairly and honestly made by the canvassing officers of the County. We have to trust somebody, and we trust the canvassing officers in the county. If there is any danger of the returns, when they are coming to the Capitol, being tampered with in the mail, it is within the power of the Legislature to provide for a safer way, but that is a matter we do not deal with in a Constitution. The idea that seems to be involved in the gentleman's proposition is that you must have a chance to contest some part of the election on the prima facie count. I deny that. I say the whole principle of republican government is founded on trust. First trust in the electorate, that they will elect good men. Next trust in the Canvassing Board that they will honestly canvass the vote without inquiring past the vote, but just find the prima facie returns. Next that when the return reaches the State Capitol that it will be honestly canvassed by the House. Don't forget gentlemen, that there will be the constitutional provision and in all the election laws the retention of two distinct ideas in the election, the first is that there shall be a prima facie count and that there shall be a speedy count and that shall be based on the face of the returns; and next that there shall always be opportunity to contest when parties are given notice and witnesses summoned and delay had for the purpose of settling the contest.

As to the forgery suggested—

MR. JONES — The clock will strike before you can finish answering that.

MR. PILLANS—Then I shall have the floor in the morning.

A motion was made that the House remain in session until the delegate could finish his remarks but the clock struck before the motion could be put.

THE PRESIDENT—Under the rules the Convention is adjourned and the gentleman from Mobile will have the floor in the morning.

By consent the report of the Committee on Journal stating that the Journal for the 25th day was correct, was read and on motion was adopted.

By further consent resolution No. 390 which had been referred to the Committee on State and County Boundaries was referred to the Committee on Amending the Constitution and Miscellaneous Provisions.

Announcements were then made and the Convention adjourned.

TWENTY-SEVENTH DAY

MONTGOMERY, ALA.,

Saturday, June 22, 1901.

The convention met pursuant to adjournment, was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Murphy, as follows:

O God, the Father of spirits, from whom all souls have come and to whom all shall at last return, abide with us, we pray Thee, in the seasons of our pilgrimage. Grant that we may serve, as serving Thee, and that we may find the succor and the security of the people in the leadings of Thy truth and in the counsels of Thy will. Guide us, we beseech Thee, that with hearts quick to conceive, and of good report, the dignities and liberties of the people may be fashioned in the forms of law, and the horizons of their contentment may be broadened to our utmost borders. Confirm them in the gifts of patience and of confidence; and confirm in us, O God, those probities of heart and those sobrieties of temper which befit the stewards of the peace of generations!

If any man among us be found in any trouble or distress, if there be sickness here, or doubt or sorrow, or a heart in its loneliness of bitter need, come, we pray Thee, to comfort and restore. For all the good that Thou hast wrought for us, for days of strength and for a world of honest love, grant us the joy of grateful hearts. Help us to believe Thee and to know Thee and to prove Thee, that Thou are God indeed; through Jesus Christ our Lord. Amen.

The roll was called and showed the presence of 138 delegates.

LEAVES OF ABSENCE

For Today—Messrs. Coleman (Greene), Bulger, Parker (Cullman), Howze, Long (Walker), Carmichael (Colbert), Reese, Vaughan.

For Today and Monday—Messrs. Fletcher, Renfro, O'Rear, Spragins.

Mr. Ely for Monday, Tuesday and Wednesday.

Mr. Weatherly for yesterday (Friday).

Mr. Kirkland for Friday, Saturday and Monday.

Mr. Sollie for Wednesday, Thursday and Friday of the present week.

THE PRESIDENT — The next order, is the report of the Committee on the Journal.

MR. deGRAFFENREID—I move that time be granted the Committee within which to make their report until Monday.

MR. BURNS—I ask the consent of this house to offer a short resolution.

The consent was given and the following resolution read:

Resolution No. 177 by Mr. Burns:

Whereas, but twenty-five (25) more working days are allotted by the enabling act; which, counting six (6) hours per day (being more than double the number of hours already utilized) would give to each member less than one hour.

Be it resolved that the time occupied on this floor by each delegate be recorder, and that no delegate, who is not chairman of some committee or to whom the time of some other delegate has not been yielded, shall consume more than his prorata share, except by leave of the convention.

Referred to the Committee on Rules.

MR. REYNOLDS (Chilton)—I ask consent to introduce a resolution.

The consent was given, and the resolution read as follows:

Resolution 178, by Mr. Reynolds (Chilton):

Whereas this convention was called chiefly for the purpose of regulating the suffrage.

And whereas, this convention has previously pledged itself to be bound by the enabling act of the General Assembly, and

Whereas, one half the time limit of said enabling act has already expired and it would be unwise to rush through a suffrage plan,

Be it resolved by the convention assembled that the Suffrage Committee be and is hereby instructed to make a report not later than Monday next.

Referred to Committee on Suffrage and Elections.

MR. GRAYSON—I ask unanimous consent to offer a resolution.

The consent was given and the resolution read.

Resolution 179, by Mr. Grayson:

Resolved that the daily sessions of this convention shall begin at 10 a.m. and adjourn at 2 p.m.

Referred to the Committee on Rules.

MR. SMITH (Mobile)—I desire to call up a resolution reported favorably by the Committee on Rules in regard to the sessions of this convention.

The resolution and substitute were read as follows:

Resolution 146, with substitute: Resolved that after next Monday this convention shall meet regularly at 10 o'clock in the morning and shall remain in session from that time until 1 o'clock p. m. when a recess shall be taken at 3 p. m. and the convention shall remain in session until 5 p. m. when the convention shall stand adjourned until 10 a. m. of the succeeding day.

Substitute for the resolution reported by the Committee on Rules.

Resolved that after the passage of this resolution this convention shall, meet regularly each day at 10 o'clock in the morning and shall remain in session from that time until 1 o'clock p. m. when a recess shall be taken until 3 p. m. and the convention shall remain in session until 5 p.m. when the Convention shall stand adjourned until 10 a. m. of the succeeding day.

MR. deGRAFFENREID—I move the adoption of the substitute.

Upon a vote being taken the motion prevailed.

MR. deGRAFFENREID—I move that the regular order be dispensed with, and that we proceed to the consideration of the matter which was being considered by the house at its adjournment on yesterday afternoon.

MR. GRAHAM (Talladega) — I hope the gentleman will withdraw it for the purpose of letting me introduce a resolution, and I will renew his motion.

MR. deGRAFFENREID—I withdraw it for that purpose.

Resolution 180 by Mr. Graham (Talladega).

Resolved, That it is the sense of this convention that the substance of the resolution hereto attached be incorporated in the article heretofore reported on the subject of taxation.

Resolution adopted by the State Association of County Superintendents of Education and approved by the Alabama Educational Association, June 20, 1901.

Whereas, there is a crying need for better school houses in the rural districts of Alabama, we, the County Superintendents of Education in Association assembled in Montgomery, hereby petition the Committee on Taxation and Education in the Constitutional Convention now assembled to recommend that public school houses be declared public buildings in making provision in the constitution for a special county tax for the erection of court houses, bridges and other public buildings of the county, and that such aid may be given by the county to the building of public school houses in the county as the commissioners court or boards of revenue in the several counties may deem practicable.

W. S. Neal,

Acting President,

L. V. Rosser,

Secretary.

Referred to Committee on Taxation.

MR. PARKER (Elmore)—I ask unanimous consent to offer a resolution.

The consent was given, and the resolution was read as follows:

Resolution No. 181.

Resolved, That a committee be appointed by the president of this convention to consist of the president, the three other delegates from the State at large, and one from each Congressional district, to prepare a memorial to the Congress of the United States, on the repeal of the fifteenth amendment of the Federal Constitution, said committee to report ad libitim during the session of this convention.

Referred to the Committee on Rules.

MR. BROWNE—It will be impossible to get a meeting of the Committee on Taxation before the report of that committee will be considered. The resolution introduced by the gentleman from Talladega, Mr. Graham, simply provides that school buildings shall be classed among those public buildings for which special taxation is provided, and for the purpose of testing the sense of this convention upon the subject, so that the committee may be directed to place school buildings with the other public buildings, I move to suspend the rules in order to put the resolution upon its passage.

MR. deGRAFFENREID—I object, Mr. President.

MR. GRAHAM (Talladega)—I hope that the gentleman from Talladega will let the matter stand until his report comes up for consideration, so, that I may have a conference with him.

MR. BROWNE—I do not see any good reason why the committee should not have the sense of the convention—

THE PRESIDENT—The gentleman from Talladega says to the gentleman from Talladega that he wants to have a conference with him before this matter is brought before the convention.

MR. BROWNE—I withdraw the motion then.

MR. HARRISON—I ask to have Ordinance 352 returned by the Committee on Corporation, and that it be referred to the Committee on Taxation.

The reference was changed as requested.

MR. O'NEAL (Lauderdale)—I ask unanimous consent to submit the report of the Committee on Local Legislation. It is very short and will consume very little time.

The report of the committee was read as follows:

Report on the Committee on Local Legislation:

Mr. President.

The Committee on Local Legislation instructs me to report herewith an ordinance to be made an article on that subject.

The evil of local legislation has long been recognized, not only in Alabama, but in many other States of the Union. A number of recent State constitutions have endeavored to check this tendency on the part of the Legislative Department, by absolute prohibition of local or special laws in certain enumerated cases. This method of enumerating the subjects, as to which the legislature is prohibited from passing local, special or private laws, seems to be the only feasible plan of accomplishing the result, and has received the approval of the following States: California,

Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nevada, New Jersey, New York, South Carolina, North Dakota, Oregon, Pennsylvania, South Dakota, Texas, Washington, West Virginia, Wisconsin and Wyoming. The reason why the other States have not sought to check this evil by similar constitutional limitation on the power of the legislature, is no doubt due to the fact that they have not framed new constitutions since the danger from this class of legislation has become so patent, and its rapid and ever increasing growth so alarming.

The Constitutional Convention of 1875 endeavored by what were then regarded as stringent provisions, to prevent the growth of such legislation in Alabama, but that their efforts failed, is made evident by the ever increasing flood of local and special laws which fill volumes containing the act of the General Assembly. In recent years the number of local laws enacted have outnumbered the general laws in the proportion of about twenty to one. The books containing the general laws of the last two sessions of the General Assembly are less than the size of the old blue backed Webster spelling book, while the volumes containing the local laws of those sessions are nearly ten times the size.

These local, special or private bills which we have sought to prohibit and regulate destroy the harmony of the law, consume the time of the legislature, and in some State have been the fertile source of jobbery In the enumeration of subjects concerning which it is proposed thc General Assumbly shall not legislate by special, private or local law, we have endeavored to include those matters which seem to have consumed most of the time of the legislature and occupied most of the space in the published acts. The requirements that the notice of intention to introduce a special, private or local law shall be affirmatively shown by the journals of each house, and that the courts and not the General Assembly shall be the judges of whether the subject of any local law is provided for by any general law, and whether the relief sought can be granted by any court, will in the opinion of the Committee very materially aid in preventing local legislation.

We have also provided for the repeal of local laws now in existence upon the same notice being given and shown as is required in the passage of new ones.

One of the most common methods of evading provisions against special, private and local legislation consists in passing acts which, because they purport to amend general acts, are themselves deemed general. Another method consists in evading such laws by the partial repeal of general laws by excepting certain counties, municipalities or corporations from their operation. We have provided that the legislature shall not indirectly enact such laws.

We have sought to prevent the assumption by the State Legislature of the direct control of local affairs. The General Assembly is authorized to confer upon local courts powers of local legislation and administration, thereby not only saving the time and expense required in the passage of local acts, but also relegating these matters to the local authorities and forum, which can best appreciate and understand restrictions.

One of the most alarming evils which is the outgrowth of local legislation, and which has increased enormously in the last few years, is the unlimited power of counties and municipalities to borrow money. The last two legislatures alone, authorized the issue of many million dollars worth of bonds in this State. This we have endeavored to check or to safe guard by proper local necessities and demands.

The Committee has not deemed it necessary to report specially upon the several ordinances and resolutions referred to it. All have been maturely considered, and the principles of most have been incorporated in this ordinance. These ordinances are herewith respectfully returned.

Emmett O'Neal, Chairman.

AN ORDINANCE

Concerning Local Legislation.

Be it ordained by the people of Alabama in Convention assembled, that the following article on local legislation be inserted in the Constitution:

ARTICLE —.

LOCAL LEGISLATION

Section 1. The General Assembly shall not pass a special, private or local law in any of the following cases:

1st. Granting a divorce;

2nd. Relieving any minor of the disabilities of non-age;

3rd. Changing the name of any corporation, association or individual;

4th. Providing for the adoption or legitimizing of any child;

5th. Incorporating a town, city or village;

6th. Granting a charter to any corporation, association or individual;

7th. Establishing rules of descent or distribution;

8th. Regulating the time within which a civil or criminal action may be begun;

9th. Exempting any person, corporation, county, township, municipality or association from the operation of any general law;

10th. Providing for the sale of the property of any individual or estate;

11th. Changing or locating a county seat;

12th. Providing for a change of venue in any case;

13th. Regulating the rate of interest.

14th. Granting any exclusive or special privilege, immunity or franchise whatever.

15th. Fixing the punishment of crime or misdemeanors.

16th. Providing for or regulating either the assessment or collection of taxes;

17th. Giving effect to invalid will, deed or other instrument.

18th. Legalizing the invalid act of any officer;

19th. Authorizing any township, city, town or village to issue bonds or other securities;

20th. Amending, confirming or extending the charter of any corporation or remitting the forfeiture thereof;

21st. Creating, extending or impairing any lien;

22nd. Chartering or licensing any ferry, road or bridge;

23rd. Regulating the jurisdiction and fees of justices of the peace or the fees of constable;

24th. Establishing separate school districts;

25th. Establishing separate stock districts;

26th. Creating, increasing or decreasing fees, per centage or allowances of public officers. No special, private or local law, except a law fixing the time of holding courts, shall be enacted in any case, which is provided for by a general law, or when the relief sought can be given by any court of this State, and the courts and not the General Assembly shall judge as to whether the matter of said law is provided for by a general law and as to whether the relief sought can be given by any court; nor shall the General Assembly indirectly enact any such special, private or local law by the partial repeal of a general law.

The General Assembly shall pass general laws for the cases enumerated in this section.

Sec. 2. No special, private or local law shall be passed on any subject not enumerated in Section 1 of this article, except in reference to fixing the time of holding courts, unless notice of the intention to apply therefor shall have been published, without cost to the State, in the county or counties where the matter or thing to be affected may be situated, which notice shall state the substance of the proposed law, and be published at least once a

week for four consecutive weeks in some newspaper, or if there is no newspaper published in the County, by posting the said notice for four consecutive weeks at five different public places in the County or counties, prior to the introduction of the bill; and the evidence that said notice has been given shall be exhibited to each house of the General Assembly, and the fact of said notice spread upon the journal. The courts shall pronounce void every local law which the journals do not affirmatively show was passed in accordance with the provisions of this Section.

Sec. 3. The General Assembly may repeal any special, private or local law upon notice being given and shown as provided in the last preceding section.

Sec. 4. The operation of no general law shall be suspended for the benefit of any individual, corporation, association, towns, city, county or township, nor shall any individual, corporation, town, city, county or township be exempted from the operation of any general law.

Sec. 5. The General Assembly may by general law confer upon courts of County Commissioners, Boards of Revenue or other courts, such power of local legislation and administration, touching all matters and things not provided for by general law, and not inconsistent with the provisions of this Constitution as the General Assembly may from time to time deem expedient.

Sec. 6. A general law within the meaning of this article is a law which applies to the Whole State; a local law is a law which applies to any political sub-division or sub-divisions of the State less than the whole—a special or private law within the meaning of this article one which applies to an individual, association or corporation.

THE PRESIDENT—The report will lie on the table and be printed under the rules.

MR. O'NEAL (Lauderdale)—I ask that the rules be suspended and that the report be made a special order, after the consideration of the report of the Committee on Preamble to the constitution.

MR. HARRISON — I do not wish to object to the motion made by my friend from Lauderdale, but it seems to me that this report should be considered in connection with the report of the Committee on the Legislative Department, which committee has not yet reported, and I hope the motion will not be insisted upon. I hope that these reports may be considered together.

MR. OATES—Before that is put, I want to say that last night we had a conference with reference to this matter, and as I understood the Committee on Legislative Department went over the items in this report, the large majority of which they agreed to, but I informed the chairman and his associates last night, that after they retired we would go on through, and if there were any proposition in the bill which we had prepared touching this sub-

ject, which were not embraced in theirs and which we thought should be, that we would furnish such suggestions to them this morning. I have them ready to furnish, but I find the committee making its report. Now I do not wish to have any conflict at all. While all that belongs usually to the Legislative Department, and comes under that head, all that I desire for the committee of which I have the honor to be the chairman, is that we may have a voice in it, and as nearly without conflict as possible. But we have some propositions not embraced in their article, that we think it is our duty to present and urge, and I have no objection to an order, if it necessary to take one, to take up the subject of legislation after the other orders that have been made, but I think that the Committee on the Legislative Department should have an opportunity, and not be cut off of having considered, in the same connection, the propositions touching local legislation, which are not covered by this report.

MR. WEATHERLY—Will the gentleman from Montgomery allow me to make a suggestion.

MR. OATES—Certainly.

MR. WEATHERLY—Perhaps the convention does not understand the fact that a number of these ordinances relating to the prohibition of local legislation have been referred to the Committee on Legislative Department and a number to the Committee on Local Legislation, so that it is as much the duty of the Committee on Legislative Department to make their report on the ordinances referred to it as it is the duty of the other committee to make a report on the ordinances referred to it.

MR. OATES—The delegate from Jefferson is quite right. He is a member of the Committee on Legislative Department, and knows these facts, that ordinances have been referred to the committee, touching the same subject. All we desire, Mr. President, is a fair opportunity to have our views represented in this connection. We do not wish to antagonize the Committee on Local Legislation, but the committee last night went over it, after they retired and think it is not broad enough, and there are other propositions that ought to go in there, and of course, the committee having made a report, I presume the Committee on the Legislative Department will also make a report, covering the points not covered by the report of the Committee on Local Legislation. Therefore, I think that while it may be conceded that this matter of legislation may come up next after the orders already made, I think that their report should be considered probably along with the report on the Legislative Department, and wherein there is a difference that it may be taken up along with that so as not to have any conflict. That is all we desire. But the Committee on Legislative Department feels that it is their

duty to report on ordinances touching this subject that were referred to them, and they have done so after careful consideration.

MR. LOMAX—Will the gentleman permit me to ask him a question.

MR. OATES—Certainly.

MR. LOMAX—Are you prepared to indicate to the convention about what time you will be ready to make this report?

MR. OATES—The Committee will have a meeting this evening, and are ready to make a report. I will state furthermore, that the delegates from Montgomery himself offered an ordinance, a very extensive and well constructed one, which was referred to the Committee on Legislative Department, and some of its recommendations were adopted by the Committee. All we want is to cover the subject well, and not be concluded from it by the Committee on Local Legislation. So I would suggest that this matter lie over until—

THE PRESIDENT—The Chair would suggest to the gentleman from Montgomery that the pending question is the motion to suspend the rules, and unless a satisfactory arrangement can be made between the gentleman and the gentleman from Lauderdale, probably the matter could be reached by a proposition to amend his motion.

MR. OATES—Mr. President it will simply result in this, to go on in that way, the Committee on Legislative Department will be offerings propositions and amendments that will throw more work before the convention, and we wanted to avoid that if we could.

THE PRESIDENT — Is the suggestion of the gentleman from Montgomery satisfactory to the Committee on Local Legislation?

MR. WATTS—No sir, and we desire to say—

THE PRESIDENT—Then the motion before the convention is the motion to suspend the rules.

MR. WATTS—I hope the convention will permit us to answer at least the implied charge of bad faith made by the gentleman from Montgomery against the Committee on Local Legislation.

MR. OATES—Mr. President, the delegate from Montgomery is assuming a good deal. I never used the word bad faith at all. I simply stated facts and nothing but facts.

MR. WATTS — That is the matter we propose to discuss. Now the gentleman from Montgomery, Mr. President, alleges

that we went to his office last night, and submitted to his committee the report of the Committee on Local Legislation. That is true. We did that at his request. The gentleman from Montgomery, the Chairman of the Committee on Legislative Department, promised to return to us our report this morning, with a statement of what objections his committee had to it. Instead of that, the report was not returned to us at the time indicated, and we sent for it, and it was sent back to us without any suggestions whatever. We therefore made our report—

MR. OATES—Let me interrupt the delegate—

THE PRESIDENT—Does the gentleman consent to be interrupted?

MR. WATTS—I have no objection at all.

MR. OATES—Now the promise that was made, was to return the ordinance to his office by 9 o'clock this morning. It was left with the clerk of the Committee on Legislative Department, and he promised to return it. When I went there he had not done so, but started to carry it just at the time the messenger came in from Mr. Watts's office. Now I never promised to send the objections with the report to his office, but promised to bring them here this morning, when I came, and that the committee would confer with the gentleman, and I have the paper ready to submit to them and confer with them.

MR. O'NEAL (Lauderdale)—If the gentleman will permit, I will say we understand him to say that he would inform us with the return of the report, what objections, if any, he had to it. That was our understanding of the agreement.

MR. OATES—No. I made no such agreement.

MR. O'NEAL—And upon the return of the report without any explanation or objection, we thought it proper to prepare it and submit it to the convention. We thought that we had carried out our agreement.

MR. OATES—I could not undertake to write out an explanation of everything in that time, but I expected to see the gentlemen on arrival here this morning, and explain to them what the position of the committee was.

MR. WATTS—The only reason we advert to the matter at all is because of the statement of the gentleman from Montgomery, in his remarks to the convention, implying that we had broken faith in our agreement. If it was a misunderstanding on his part, as to what the promise or agreement was, or upon our part, of course there is nothing more to be said upon that subject.

MR. OATES — I will state that the misunderstanding was with you.

MR. WATTS—But we understood when the gentleman failed to send us the report at the time agreed upon, and we had to send for it, and when he sent it back to us without any comments whatever, we took it for granted that he had no comments to make, and there was no reason why we should not make our report.

Now in reference to the suggestion made by Mr. Weatherly and also by the distinguished gentleman from Montgomery, that their Committee should report upon matters of local legislation, I respectfully submit that the Committee on Local Legislation was established by this convention for the purpose of considering matters of local legislation, or it has no functions whatever. If the Committee on Local Legislation has jurisdiction of his subject, then the Committee on Legislative Department has not. There cannot be two committees with concurrent jurisdiction in this convention, and with all due respect to the learned gentleman from Montgomery, the Chairman of the Committee—

MR. HEFLIN (Chambers)—I rise to a point of order. A motion to suspend the rules is not debatable.

THE PRESIDENT—The point of order is well taken.

MR. WATTS—I obtained leave. No one objected to my remarks.

MR. HEFLIN—I did not so understand it.

MR. WATTS—The gentleman is unfortunate in not so understanding it. Leave was granted. I asked leave and no objection was made.

MR. HEFLIN (Chambers)—I insist upon the point of order.

THE PRESIDENT—The proposition was not stated to the convention, the Chair will suggest, but the Chair by indulgence was allowing the gentleman to proceed, in reply to the remarks made by the gentleman from Montgomery, by common consent, but the question was not put to the convention.

MR. WATTS—I insist that if other gentlemen is not fair to cut off the committee. The committee always has the right to close any discussion affecting their report.

THE PRESIDENT—That is a matter with the gentleman from Chambers, who makes the point of order.

MR. WATTS—I merely want to state the position of the committee, in reply to the gentleman from Jefferson and the gentleman from Montgomery.

THE PRESIDENT—The Chair will state when the gentleman from Montgomery commenced to discuss the matter, it was not debatable, but the Chair simply allowed some debate by in-

dulgence, because no point had been made against it. If the gentleman from Chambers insists upon his point of order, the Chair will sustain it.

MR. HEFLIN (Chambers)—I will withdraw it. I thought we were consuming a good deal of time on this question, but if the gentleman will be brief in his remarks I will withdraw.

THE PRESIDENT—The gentleman will proceed.

MR. WATTS—I was about to remark, Mr. President, that it seems to me that if by inadvertence any ordinance introduced into this Convention was referred to the Committee on Legislative Department, which related to the subject of local legislation, it was their duty, instead of considering it to report it back to the convention, and have it referred to the proper committee, the Committee on Local Legislation, and I do not think that the Committee on Legislative Department should have gone on and considered the question, unless they had first come into the convention and asked that the Committee on Local Legislation be discharged, and I think that if the gentleman has objections to the report of the Committee on Local Legislation, he can make them by offering to amend the report, in the various and sundry particulars, but I do not think we should be subservient to that committee, any more than we would be subservient to any other—

MR. BROOKS—I would like the indulgence of the Chair and of the gentleman, to make a suggestion to the gentleman from Lauderdale, who offers the report of the committee.

It is this: suppose he lets this question go over. After we get through with the discussion on the report of the Committee on Executive Department, there is the report of the Committee on Taxation, and after that the report of the Committee on Preamble and Declaration of Rights, and it will not prejudice the gentleman's case, if he will wait a day or two, until the report of the Committee on Legislative Department is in and then a special order can be applied for, for both reports, one after the other, and in that way the Convention will have the opportunity and advantage of having both reports before them to read, before they come up for consideration as a special order. I would therefore suggest to the gentleman from Lauderdale that he withdraw the motion for a suspension of rules and let the matter go over. It will be without prejudice to his case.

THE PRESIDENT—The Chair expresses hope that the different Chairmen of the Committees will get together and come to some agreement.

MR. O'NEAL—Other committees have made their reports and they have been assigned as special orders by this Convention. I see no reason why the Committee on Local Legislation

should not enjoy the same privilege. Therefore, I cannot assent to the proposition of the gentleman from Mobile. We have made our report and I know of no reason why this report should not be made a special order by this Convention and I cannot assent to the proposition that our report should be made subordinate to the report of any other Committee.

MR. CUNNINGHAM—I rise to the point of order that under the rules of the report of the Committee on Legislative Department will take its regular place on the Calendar which will be following the report of the Committee on Preamble and Declaration of Rights. Therefore the motion to make it a special order succeeding that is out of order.

MR. O'NEAL—If that point of order is well taken, I withdraw the motion.

THE PRESIDENT—In the opinion of the Chair the report of the Committee will lie upon the table and be printed, and, under the rules, will come up for consideration, in the absence of some special order in the order prescribed in the rules.

MR. O'NEAL—Will the Chair permit an inquiry?

THE PRESIDENT—The reports of Standing Committees will be called in the order printed in the rules.

MR. O'NEAL—But that course was taken in reference to other reports and I desire to make this inquiry: If this report is not made a special order and some other report subsequently made is made a special order does not that come up before this? In other words, I want to know where this will come?

THE PRESIDENT—That is in the power of the Convention to determine.

MR. O'NEAL—The report of the Committee on Suffrage may be made some day next week. We cannot anticipate but it is evident that that report will consume a large amount of time and interest in the Convention will to a large extent cease when that report is disposed of.

MR. SAMFORD—I rise to a point of order. A motion to suspend the rules is not debatable.

Mr. Oates here endeavored to secure recognition.

THE PRESIDENT—Does the delegate from Pike withdraw his point of order?

MR. OATES—I do not rise to debate, but simply to make a suggestion.

MR. SAMFORD—No, sir.

THE PRESIDENT—Is there any objection to hearing the suggestion of the delegate from Montgomery? The Chair hears none. (Laughter.)

MR. OATES—The Committee on Local Legislation makes its report and moves to suspend the rules. All I have to suggest is that the Committee on Legislative Department make its report and where it has anything upon which we have any matter, we will offer it by way of amendment to his report when it is under consideration and in doing that we do not intend any disrespect to that Committee and are not trying to displace them.

MR. O'NEAL—Under our report we ask that this Article on Local Legislation be made a separate Article in the Constitution and not incorporated as a part of the Article on Legislative Department.

A vote being taken, the motion to suspend was lost.

THE PRESIDENT—The next regular order will be the consideration of the report of the Committee on Executive Department and the pending question is the substitute offered by the delegate from Sumter for the Section reported by the Committee and the gentleman from Mobile had the floor when the Convention adjourned.

MR. PILLANS—I regret that the clock struck just when it did for I had about concluded all I had to say and when a man is cut off by an adjournment and commences the next morning, he always runs the risk of getting wound up again. However, I shall endeavor to be brief in what I have to say in opposition to the novelty proposed by the Committee in their substitute, and in favor of the substitute offered by the gentleman from Sumter.

Just at the close of yesterday's session I was about to answer a question put by the honorable gentleman who is the Chairman of the Committee, the report from which I am antagonizing, as to what is to be done if we keep the provisions of the old Constitution or the provisions recommended by the gentleman from Sumter, which follows closely upon the old Constitution. I believe the question was if we adopted the substitute offered by the delegate from Sumter what would be done by the Speaker and the Joint Convention and the two houses, acting ministerially, in the event a forgery had been committed in a return which had come to them.

In the first place the whole theory and practice of republican governments are based on true official returns. We cannot surmise in the organization of a republican government that there are no human beings to be trusted with the true performance of official duties. In the prima facie establishment of the result of an election we have to trust the sworn officials who have in charge

the making of due returns and the counting of those returns as ministerial officers. But has any man ever yet heard it claimed that a forgery was anything whatever but a void thing. I take it that a forgery is like a void decree or a void law. It does not exist. I take it when you say a return is a forged return it is no return, and, therefore, the dilemma the gentleman puts, is no dilemma, that if forged returns are sent to the Secretary of State and when they go into the hands of a speaker of a joint convention, that they are as much bound to disregard them as ministerial officers as a probate judge would be bound to disregard a forged bond of a tax collector. There is a ministerial act performed by the judge, but suppose the tax collector of Montgomery County brings up a bond, not really signed by any sureties, but having on it the names of men of amply sufficient estate to make them good sureties on his bond, and suppose those names are forged—

MR. JONES (Montgomery)—Will the gentleman allow me to ask him a question?

MR. PILLANS—I will, but I would like to finish the sentence.

MR. JONES (Montgomery)—When the joint convention refuses to receive returns because forged, what kind of power do they exercise, ministerial or judicial?

MR. PILLANS—They undoubtedly exercise ministerial power. That is the proposition I am trying to get before the house.

MR. JONES (Montgomery)—And when the probate judge refuses to receive a forged bond tendered to him as the bond of a tax collector, is he acting judicially or ministerially?

MR. PILLANS—I think he is acting ministerially.

MR. JONES (Montgomery)—My friend runs counter to the decision of the Supreme Court of Alabama when he makes that claim.

MR. PILLANS—I do not think I am and if the gentleman will refer me to them I shall be glad to discuss them with him on brief and not detain the house.

MR. JONES (Montgomery)—They are the cases of ex parte Harris and ex parte Thompson. If you will read those decisions you will find they hold exactly to the contrary of what you say.

MR. PILLANS—I was saying that in the very organization and creation of a republican form of government you have to permit the prima facie decision of who is elected to an office else you have anarchy and discord invited into your State.

What is the objection to the proposition of the gentleman? He says he is only a little one, and therefore it is not a serious one and ought not to be punished severely. He says when it is charged against his report that it invites a contest on the threshold that it is not a contest because it is only a contest from Montgomery County back to the county seat, that if they have declared, as he by way of illustration suggested, that they declared in Montgomery or any other county the result and the result certified proved different, that that would be a fraud which was apparent and could be inquired into by sending a committee down to investigate.

Now, the proposition of the gentleman is to make this a returning board having judicial power, a Board of Contest before whom must go the returns which reach the Secretary of State under forms of law and from the Secretary of State is sent to the speaker of the joint houses and he says it can go behind those returns. It is true he limits that question to what occurred between the action of the canvassing board in the county and the action of the Board in Montgomery.

Has it proved to be the experience of American public bodies, that no trouble arises from such power as this? Has it not rather proved to be the experience of those bodies whenever you invite or give the power to discuss the validity of an election that chicane enters into the discussion.

I will point you for an illustration to the Electoral Commission which was elected to do the very thing which my learned friend wants the convention to provide for by doing of by the joint convention and the speaker. It was a quasi judicial body to examine returns, quasi judicial and quasi ministerial and it passed on the question of who was elected and that body divided strictly on party lines, even the members of the highest judicial tribunal in the world and they decided one way on a question that arose in Florida and ruled precisely the other way on a question from Louisiana. We know whenever you put the returns of an election when the first count is to be made and the commission issued into the hands of political bodies, politics will dominate and not facts. There is an unwillingness to put the word ministerial in. It was admitted by the Chairman of this Committee in answer to the remarks of the gentleman from Mobile, my colleague, that it was intended to be a judicial and not ministerial body. If that is to be, you have simply invited trouble, you are seeking trouble. If there is a hotly contested election for State offices in Alabama, the houses are bound to be close as they are elected at the same time, you invite trouble at the very opening. I would like to ask the Committee if there is a Constitution in the United States which has a similar clause to this?

MR. JONES (Montgomery)—I don't think there is. So far as I have examined I have not seen one, but the question has not come up in any of the recent constitutional conventions.

MR. PILLANS—I confess it is a novelty. I looked hastily through the annotated New York Constitution which contains references to similar clauses in the Constitutions of other States and while I am not absolutely sure my impression is you will find in eight-tenths of the States a similar clause to what we have in our constitution now, and which is contemplated in the substitute I am advocating. In a few of the New England States, Connecticut and Massachusetts and one or two others, the clause runs this way, that the returns from the select men or whatever they are termed there, shall go to the Secretary of State and be placed by him in the hands of the houses who shall declare the result. In all the cases I could find there is a constant idea that no contest is to be dreamed of until the result is declared. Now, when we elect a Governor, we want a Governor. It is not so material to the interest of the State that John Smith, a Democrat, or John Jones, a Populist, should be Governor, but that there should be peace and order in the State, order in its affairs. If there is an error committed we are too just to allow that error to go uncorrected. How is it corrected? By the perfectly orderly proceeding of a contest. If it be in county or city matters the contest is in their legal forum. If it is in an election for general State officers such as those named in the section, the contest is before the highest body, unhappily a political body, but the only body in which it could be imposed—the joint Convention of the two Houses of the General Assembly. When those houses sit as a judicial body to hear the complaint of the apparently defeated candidate and hears the evidence, every man unless a bad man feels as each Senator must feel in a matter of impeachment. "I am a judge, I will decide honestly as a judge." At least we may suppose those will be the feelings of those sitting as judges. But this proposition submitted by the Committee undertakes to make that political body a set of judges at the beginning, and merges the idea of contest with the idea of count, a thing which has never been done except, perhaps, in the celebrated returning board incident in Louisiana, and which, from that experience, certainly should not be encouraged to exist here.

Now, a word more as to the suggestion that there may be a declaration of a vote in the County by the canvassing board and that when the Speaker opens the returns from that County he finds greatly differing returns. And the suggestion it made that that ought to stop the count until a committee of investigation has gone down and ascertained the truth of that matter. That to my mind, involves the substitution of political hearsay, in times of passion, for certified official papers. The law has declared that the people who have handled these returns are all impeachable.

I doubt not that there are sufficient laws on the statute books to cover all those cases, and if not sufficient, other laws can be put there that will throw proper protection around the people in that regard. And there are seals in the circuit courts of every county to certify the signature of the officials sending up the returns. But above all that, the gentleman says that A. B. may arise in the Convention, when they have nothing to do but count the vote, and say it was announced in Shelby County at the time the vote of the electors was declared, that the majority was 2,000 and it appears here as 1,000 or 5,000. If the Houses are to stop on that, they stop on hearsay as distinguished from certificates of sworn officers, and I take it that has never been the practice in any republican form of government and never will be the practice. There always has been and always will be a recognition of something coming from officials as being valid and upon the recognition of that something as being valid the count is closed, and upon the count being made the commission will issue and nothing will then be left for the joint Houses.

MR. JONES (Montgomery)—I regret very much that as chairman of the committee it is my duty to speak again on this subject. It reminds me of a conversation a very dear friend of mine once had with a newspaper reporter. My friend was driving through the country in midwinter, over miserable, muddy roads, with one lone newspaper reporter for a companion. He was a candidate for re-election for Governor, and had been going over the State from day to day, sometimes making five or six speeches a day. Being gloomy he sought some sympathy from his companion. He said he was so tired of having to talk, making the same speech with slight variations, over and over again—that he was getting tired of the sound of his own voice. Is it best to have to do this? He got no consolation, however, for the bright newspaper reporter responded: Yes, it is bad; but if it is bad on you, what do you think it is on me, who have to listen to all your speeches? I hope the Convention has not yet got in the frame of mind of that reporter.

I will detain you no longer than is necessary to answer some objections to the substitute.

There are two propositions before the House. One is the substitute by the committee, and the other is the substitute for the report offered by the gentleman from Sumter. They are very different propositions. The proposition of the gentleman from Sumter is, that the joint convention shall be a ministerial body only, and have nothing but ministerial power. The substituted report by the committee gives the joint convention, as we think it has always had, judicial power in certain respects only. I generally yield great deference to any statement of law coming from my friend from Mobile (Mr. Pillans), because he is usually very

accurate. I am satisfied if he has examined this question, with the care the committee has, that he would not be in favor of a proposition that the convention should have only ministerial power, or assert that it has only ministerial power under the present Constitution. I said that when an officer approved a bond, when question of forgery or any other objection came up, and he acted upon it, that he exercised a judicial and not a ministerial power. My friend thought I was mistaken. I will read very briefly from the case of ex parte Harris in 52 Ala. page 91, where the court used these words:

"The form of an official bond, its condition and obligation, are prescribed by law." So far so good, there is no trouble about that. "Whether a bond offered conforms in this respect to the requisition of the law, the officer must determine before approving. He is forbidden to approve, if the bond does not conform to the statutory requisition. Can it be said that in determining the sufficiency of a bond in this respect, ministerial, and not judicial power is exercised? Some of the most difficult questions which have been the subject of investigation and decision in this court were whether bonds sometimes official, sometimes taken in the course of judicial proceeding, conform to the statutes authorizing them, and were to be esteemed statutory bonds, or valid only as common law obligations. The approving officer must also inquire into and pass on the solvency of the obligors. This requires the hearing and weighing of evidence. If he should adjudge them insufficient, the exercise of his judgment will not be controlled by mandamus. In the exercise of the power of approval, however erroneous his action, in the absence of statutory provisions subjecting him to liability, he is exempt on the common law principle, which protects a judge from liability to suit or indictment for judicial acts or omissions. We therefore must pronounce the approval of an official bond is the exercise of power in its nature judicial, not ministerial. A different conclusion was attained in State vs. Ely, and in ex parte Candee, 48 Ala., on reasoning not satisfactory to us."

The Supreme Court overruled those cases which had said it was a ministerial power. The Supreme Court of Alabama holds that when a ministerial power only is exercised you have no discretion, you have no right to take evidence, etc.—you are bound to act when certain things happen—as if I go to a clerk and say file this complaint. He is bound to do it. You give to a tax collector a warrant to collect taxes, he is bound to do it. He has no discretion, he cannot determine anything, when the warrant is presented, his act follows automatically. That is not the case when you exercise judicial power. I hope members will bear in mind that under the present Constitution not a word has been said about the powers of the Speaker. All that is left is uncertainty. The gentleman lays some stress on the fact that in the

Constitution of no State has any such limitation been made; but are we not to learn from the wisdom and experience of our fathers? The Congress of the United States never made any provision for a contested election for the Presidency, until the question arose in the case of Hayes and Tilden. Then they passed statutes on the subject. Here we are framing a Constitution which we hope will be the fundamental law of Alabama for many years to come. We are, or hoping, to make vast and beneficial changes as to our elections. We wished, taking warning from the experience of our fathers, to make provisions which will prevent the will of the people from being defeated, when the result is declared in the Joint Convention. My friend from Mobile (Mr. Pillans) said that I could not get it into my head—that I would keep on arguing that we were not making a Returning Board until we went down under the adverse vote of this Convention. It may be that this Convention may not see this matter as the Committee does, but I don't think I am a sanguine prophet when I venture the assertion that perhaps the House sees the matter as the Committee does. Much has been said about the Returning Board of Louisiana. This report is likened to that. Is there any reason for such a parallel? What was the Louisiana Board? Composed of four or five State officers, headed by Mr. Madison Wells, which had power to canvass the returns and to decide nothing going behind the returns. They did not inquire whether the returns sent up declared the results as ascertain in the different counties; but they overthrew them. They constituted themselves into a Board of Electors for the State. The officers had sent up returns showing so many votes for the Democratic electors. They said there was intimidation, that there was fraud, that there was not a fair vote and therefore, they would not confine their functions to ascertaining what was declared below, but would go on and vote for the people of Colfax County. They formally counted up what they thought would have been the vote if the people had not been "bull-dozed," and gave certificates based on such supposed votes to the Republican electors.

MR. WALKER (Madison)—Will you allow me to interrupt you?

MR. JONES—Certainly.

MR. WALKER—In the Section of the report by the Committee, in the first subdivision, powers given to the Joint Convention, they are authorized to ascertain the genuineness of the returns?

MR. JONES—Unquestionably.

MR. WALKER—In the third subdivision they are authorized to procure correct returns from proper offices?

MR. JONES—Yes sir.

MR. WALKER—As I understand your argument that is really as far as it is desired to give power to that Joint Convention?

MR. JONES—Unquestionably.

MR. WALKER—Then what is the use in the second subdivision of authorizing them to correct such errors as may be made, isn't the effect of the second subdivision to give them the power of a Returning Board?

MR. JONES—I do not know that it adds any great force to the Section, and for that matter the Committee would be perfectly willing to put in the word "clerical" or strike it out. When I was interrupted, I was about to say, Mr. President, what became of the Louisiana Returning Board? They were convicted of forgery, of a violation of the laws of the State of Louisiana, and finally, pardoned by the authorities of that State in consideration of the fact that Mr. Hayes had withdrawn the troops and that the people of Louisiana ruled themselves.

MR. PILLANS—May I ask a question?

THE PRESIDENT—Does the gentleman permit an interruption?

MR. JONES—Certainly.

MR. PILLANS—Then the only example we have, that Returning Board of Louisiana as I understand it, and which was with powers very similar to those you propose, resulted disastrously and encouraged that Board probably to go beyond the powers intended?

MR. JONES—No sir. Because they were a set of rascals and violated the law, and usurped authority. Their conduct does not illustrate the contention that the Louisiana Returning Board had authority to do as they did from such provisions as embodied in the Committee's substitute. On the contrary the Supreme Court of Louisiana said they had not such power, under terms of an act like ours and convicted them of forgery.

We are contending in this substitute for the position that was contended for by the great party which supported Mr. Tilden, when a contested election was threatend in the two Houses. They said, we do not admit that Congress has the power to go behind the action of the State; but we do insist that Congress has the power to ascertain what the State has declared; and therefore they insisted that Congress had the power to look at these returns sent up from the different counties which the Louisiana Returning Board had cancelled and held of no effect.

MR. ROBINSON (Chambers)—I would ask the member from Montgomery if they didn't make a mistake and will they ever make the same mistake again?

MR. JONES—Who made the mistake?

MR. ROBINSON—The Democrats.

MR. JONES—I think perhaps, they did. They made a mistake in law, in submitting it to a commission instead of deciding it for themselves—speaking from a point of constitutional law. If the gentleman means in a point of policy. I say no, because the South at that time was in a position where it could not go to war. It was better to yield to arbitration than to be humiliated by defeat in an useless war. For that reason, it was well to have a board of honor, so to speak. It was statesmanlike, especially on the part of Southern men to yield to the creation of an Election Commission.

I ask the members of this House to read this section. Don't take it up and find a line, or a word, or a sentence in it, and immediately strike at that as though that were the only sentence or line in the section. It is common knowledge and common learning in considering a section of a writing that you must consider it all together. You must attach some force to each word of it. You must give each word its proper significance, and ascertain from the language used what the intent was. If it is not clear then you enter into construction, the evil to be remedied, etc. Let us see the power that this Board has under this section? After saying that the returns shall be published in the presence of both houses, we have added "the joint Convention shall supervise and control the Speaker in the discharge of his duty." That was not in the old Constitution, Mr. President. The claim was that this Speaker who was a mere creature of one House, had vested in him the sole sovereign power of Alabama to declare the result when the election returns were made up that has been the claim many a time. There were other great jurists and authorities who said no. What are the two houses about? Why are they required to assemble in joint Convention? Are they mere satellites there to surround and honor the Speaker? Can't they open their lips? Have they no power whatever? And these jurists, and some very great men among them contended, and I think rightfully, that the Speaker was the instrument of the joint Convention, and that they could control him. We all agreed if that was not the law, that it ought to be, that one man sitting in that chair ought not to have the right, in violation of the will of 132 others on this floor, to decide and determine as he pleased, questions that arose on a count of a vote.

MR. PILLANS—Is not that part of your objection to the old law met by the language of the substitute as proposed by the gentleman from Sumter?

MR. JONES—There never was any trouble upon that point between the gentleman from Sumter and the Committee; because we all agreed that we wanted to put the Speaker in a straight jacket and make him obey the two Houses so far as that was concerned and that was the original report of the Committee but we did not think it wise to go into the powers of the Joint Convention; but in deference to what seemed to be a desire in the house we undertook to define the powers of the Joint Convention —first, you are the master of the Speaker, he must obey you. Nobody objects to that. Now what next? "And has power, first, to determine whether the returns are in legal form." Does anybody object to that? Could the body discharge any duty at all unless they had that power? I can't think there will be any objection to that? "Made by the proper officers." Unquestionably they should not accept returns made by anybody not officers. And do what? "Truly give the result as ascertained and declared by the Board of Supervisors in the several counties." What truly give—the returns sent up? Second, to correct such errors as may be found therein. Third, to procure returns when none have been sent up.

I submit to the House that the sole purpose so far is to maintain the integrity of the returns as made in the different counties; to say to that Convention, you shall not go beyond them, you shall be bound by them. If a return comes up here which it is shown violates the integrity of these returns, then you must take the returns with the result as ascertained and laid down in the county canvass. It is in line with the demand for "home government." It says in case of doubt you shall go down there, and see whether the returns sent up here testify to the same result as ascertained below. This and only this—not whether the votes were legal or not; not whether there was fraud. The latter matters must be left to the Supervisors in the several counties. The substitute shows solicitude for carrying out the will of the people. It gives the Joint Convention power to determine everything which may be done to carry out the will of the people of Alabama as declared in the sixty-six counties. That is all that it does. My friend does not seem to remember that a little further on it says "they shall not have power to question a return in any other respect or for any other matter." Later on it says "contested elections shall be determined by both Houses in such manner as may be prescribed by law." How, then, is it possible to say that the Committee in framing this substitute gave this body and power to resolve itself into a Returning Board, and overthrow the will of the people as declared in the several counties? Mr. President, I concur with the statement made by my friend from Mobile that you must trust somebody in the first instance, in every governmental act that is to be performed. I concur in it heartily. These 133 men, who compose these two houses and sit in Joint Convention, are the very same men who ascertain and declare the result if there

is a contest. If they are going to cheat, if they are going to usurp power, for instance, you cannot help it by laying down rules in a statute. It is impossible. There has not been a day since Alabama was a State, when the Speaker, if the Joint Convention permitted, did not have the physical power, and I might say legal power, because it would take some time to correct it, to say here are the returns from such and such a county. They are not in proper form. They are not signed by the proper officers. I will throw them out and not count them, and thus, although there might not be a word of truth in the objection—although it might be a bald usurpation, still it is a matter which is dependent solely upon the honor and integrity of 133 men who come here to witness this county, every time you elect State officers. You cannot provide against that by any words or provisions, so long as you give the Speaker power to count. Now the Committee desired to preserve in its integrity all the power to the election officers below, including the declaration of the result below; but they did not want to put the Speaker of this Joint Convention in a ministerial capacity, under which, according to the Supreme Court they must eat whatever is fed to them. We did not wish to deprive them of what is plainly the judicial power, to say this is or is not the genuine returns, the figures have been changed in this thing, since it was sent up here. Mr. President, some gentlemen seem to think it is a very small matter, this prima facie declaration. On the prima facie declaration may depend the welfare of the State, the transfer of power in all of its branches, and if you put this Convention in a ministerial straight jacket you can make a Governor, it may be a slip of the pen, and you make this Convention powerless to resent a fraud which may be practiced on it in changing the figures in returns. We do not want this joint convention to be a mere clerk, who must say, I am powerless to reject the fraud, though I know it is in the returns. Who in the language of the substitute offered by the gentleman from Sumter, must "count them on the face of the return?" But we want the Judge to speak in behalf of Alabama. Now there is nothing in that, Mr. President, in the nature of a contest. There is never an election for a State officer in the legal sense, until the steps have been taken, starting out with the deposit of the ballot in the ballot box, including the returns to the County Board, etc., declaration of the result, the returns sent up here, and finally a declaration of the result by the joint convention then declaring who has been elected Governor, and to State offices. Until that declaration is made by the Speaker, or by the two houses there has been no election to any State office. You must have an election, a declaration of the result, before you can have the contest. Now there is not a line in this section that can be tortured into a jurisdiction or power to go behind the returns. It is explicitly stated they shall not have power to object to returns for any cause whatever, except the three mentioned. A little later on the section says "contested

elections shall be determined in such manner as shall be provided by law." Is it wise, is it, a sound policy of government to use words which we know, from Supreme Court decisions, put our State offices, our General Assembly, our Speaker, in a position where a fraud not in the returns as made out, but as allowed, might nullify for the time being at least the will of the people of Alabama. Let us suppose a Speaker, under the operation of the substitute of the gentleman from Sumter, and here are the returns. Somebody objects. Why, he says, isn't that genuine, isn't it sent by the Board of Supervisors, yes. Didn't it come through the mails? Yes. But, Mr. Speaker, I don't ask to prove that the election was not fair, nor to go behind that, but I have proof that a clerk in the office it may be, who was left to fill in the figures, purposely put in 2,000 or 3,000 votes more than the man got, in order to change the result in the State. The Speaker must answer, I am a ministerial dummy. I am bound to count it. The State election not many years ago hinged on the vote of one county, and about 1,500 votes at that. The difference as to that caused the Smith-Lindsay contest. If your Speaker and General Assembly are bound up in a ministerial jacket, the answer must be, when any one of the questions arise to which I have adverted we are doing what the Constitution says we must. We have no discretion. We must take that return. It is here and we must count it; and thus the act of a clerk may put out the officers elected by the people of Alabama and give their offices to others, and drive the real elected officer into a contest—and all because of one single little fact—the ascertainment of which does not seek to go beyond the return—could not be investigated by the General Assembly, because inadvertently this Constitutional Convention had put in the word "ministerial." I hope, therefore, that this convention will not put in the word "ministerial" as regards the functions of a General Assembly. We did put it in as regards the Speaker in the article first reported, because we wanted him to be subject to the powers of the two houses, but we said nothing about the power of the two houses. Afterwards we came in and limited that but left them some judicial power, and the gentleman from Sumter wishes to strike out that, and say, "None of you are to have any power except what is purely ministerial." I do not think his view is wise. I hope it will not be adopted. If the convention in its fear of Returning Boards, which is not justified under the language of this section, think that nothing ought to be said about the powers of the joint convention, let us strike out the substitute, but don't let us play on words, and put our representatives, our officers in a position where the fact that a man commits fraud binds them, hand and foot and makes them powerless to prevent a reversal of the will of the people. They say this prima facie declaration is a small matter; but the power of State may be changed by this fraud, and the very power you give a man who is not elected may be the means of defeating the will of the people.

My friend said something yesterday about the unfortunate condition of affairs in Kentucky, because there the legislature was vested with judicial power. So here the legislature is vested with judicial power to determine contests, and it is the only body that can be given that power unless we want to demoralize our courts and destroy their usefulness, by making them the arbiters purely of great political questions. You are bound to trust the General Assenbly. The unfortunate condition of affairs in Kentucky did not arise from the fact that the General Assembly of Kentucky had power to decide who was Governor on a contest; but it arose from the bad and vicious passions of men which resulted in the assassination of the Governor of Kentucky. I say it reverently, if the power to decide that contest had been relegated to the Almighty, instead of to a human board, nevertheless his opponents would have killed him. His death did not arise out of the clause in the Constitution of Kentucky of giving judicial power to the General Assembly. I have spoken longer than I intended, but I felt it a matter of duty. I have been surprised to find gentlemen on this floor who believe this Committee on Executive Department, who are certainly men of ordinary ability, ordinary good lawyers and of ordinary patriotic impulses, have been engaged here today in trying to get this Convention to adopt a vicious doctrine; and by putting it in the Constitution do something that would be destructive of the liberties of the people of Alabama.

MR. SOLLIE—If it were not that the amendment or substitute offered by the gentleman from Sumter is in lieu and stead of the section now proposed by the Committee I, perhaps, should be against the amendment offered by the gentleman from Sumter, for the reason that as I read Section 4 of the article under consideration there is no need for a change at all. There is an old adage to the effect substantially, that we are prone to endure the evil that we bear rather than fly to those we know not of; and our fathers in making the Declaration of Independence gave us the same idea as applied to government, but in different language. Here we have a section in our present Constitution which has been tried for twenty-five years. So far as I have been able to ascertain from inquiry among the older members of the Convention and so far as I have learned from my own reading and observation, the evil which the change purports to remedy has never been practiced in Alabama. I learn from the more aged members that there has been no time when the officers charged with the duty of certifying returns in Alabama have so falsely handled those returns as to change an election; and we have a history of eighty-two years covering the rise, life, fall and death of quite a number of political parties. We have had the Know Nothings, we have had the Greenbackers, we have had the Whigs, we have had the Populists, and all of them have come and have had their day and gone. The Republican party has come into existence since we

have been a State and with all these changes of parties and with the fact that we have been engaged in one national and one civil war, and that our people have been through all the experiences that are supposed to lead men away from their moorings and arouse their passions and sidetrack, if the Convention will excuse the expression, their judgments, there has never been an occasion when there has arisen a practical need for the changes sought.

MR. ROGERS—I wish to say to you that in my amendment I simply wish to define the power of the Joint Convention and Speaker as it is understood to exist at the present time.

MR. SOLLIE—I was coming to that later.

Now I will state to the Convention what I understand the meaning of Section 4 in this Article to be. As I understand it the Joint Convention in canvassing the returns and declaring the results acts ministerially. The language of this section of the Constitution is as plain and simple and straightforward as can be, and I can scarcely conceive how gentlemen on the floor of the Convention can conclude that out of this language there may be raised up the proposition that the Joint Convention in canvassing the returns act in any aspect of the case judicially. My construction of this section of the Constitution is that the Joint Convention, together with the Speaker of the House of Representatives in the act of declaring the result of an election act ministerially and not judicially. The amendment proposed by the gentleman from Sumter is simply a constitutional declaration of what I conceive to be the meaning of the section as it now stands. I further contend that there is not, in section 4, such uncertainty in the language as to leave it open to doubt as to whether or not the joint Convention has control of the Speaker in declaring the result. I will read the language of the Convention. "He shall, during the first week of the session, to which said return shall be made, open and publish them in the presence of both Houses of the General Assembly in joint Convention. The persons having the highest number of votes for either of said offices shall be declared duly elected." My contention is that that means "shall be declared elected by the Joint Convention, not by the Speaker of the House." The Speaker of the House simply opens and places before the Convention the returns from the different counties as a clerk might do, and then the joint Convention takes up and canvasses the returns and declares the result. Therefore, as I say, with the section as it now stands in the Constitution the amendment of the gentleman from Sumter is not necessary, because it only seeks to do that which is apparent and clear in the section as it now stands.

Now, as to changing the present Constitution and giving the Convention which is to declare the result of the election, new duties, new powers and new authority. The proposition is to

give them in addition to ministerial powers which they now hold by law certain judicial authority and clothe them with certain judicial functions. The gentlemen of the Committee and the Chairman of the Committee undertake to avoid the force of the argument that the joint Convention should not be made in the first instance and before the declaration of the result, a body for contesting the election—I say, they seek, it seems to me, to avoid the force and effect of that argument by making them a contesting body or a body for the purpose of carrying on contests only to a very limited extent.

Now, Mr. President, a contested election begins with and includes the result as it is declared, and all that pertains to that result, the holding of the election, the counting of the votes, and everything from the beginning to the end of the election and up to the time when the returns are placed before the Speaker of the House and there laid before the Convention. All that is back of that which is fraudulently and wrongfully done comes within the scope and purview of the contest.

Why, then, should we invite a body organized not as a court but as a political organization, without any definite rules, without any limitations upon their power to act, without any demarkation lines, without anything by which the people may know how they are going to proceed or how far they will go in this direction or that, or what processes they will resort to, or how they will conduct their proceedings—all left to them, to proceed nolens volens, and to say, "we do this or that," with no provisions of law laying down the rules to govern them, while the people stand off and wait and this joint Convention proceeds to set as a judicial tribunal and goes certain lengths into the contest of the election for the purpose of ascertaining whether there has been fraud in the election. If we may take the first step, if we may put upon the joint Convention the power or the duty or the right ex mero motu to judicially take this first step, why not let them go two steps or three steps or half way or nine-tenths and leave only one-tenth of the contest to come up and be passed on finally when the contest has in fact been started in the ordinary way? I say where is the rule of reason for putting these men a short distance into the judicial aspect of the case and not allow them to go any further?

Well, let us see. The gentlemen speaking before the report of the Committee and against the substitute offered by the gentlemen from Sumter, have given some reasons. They say that if a forgery has been committed by the Judge of Probate, or the result as declared is sent in falsely, this at least should be corrected. I suppose they expect to cover in that suggestion, both mistakes and forgeries; that it would be only fair to permit the Joint Convention, to unravel at least that far, which could easily be

done, in order that as near the truth as may be ascertained in declaring the result as is possible.

But let us see if when we view the case on all sides, we do not see rising up before us greater evils than those that exist as the matter stands today. We have in favor of the Constitution as it now stands, the fact that it has never worked evil. We have the probability that it will not work evil. We have the fact of its proven wisdom, that it has been tried; it is a tried friend and tried fundamental law; something that the people know how to confide in, to cling to, and lean upon; something that the people of Alabama will have confidence in, having lived under it for a quarter of a century, and when it is sent back to them for ratification they will readily ratify it.

We have as against that, the possibility that some ministerial officer from the counties will, either through mistake or through fraud, send up from the county to the State, a false return. What more have we against that? We have the fact that these returns come in just at the time when men's minds are excited; when their judgment is perhaps off its guard for the time being, and place is given to their passions, to their political aspirations, and to their ambitions. We have a body with no defined limits, with no lines within which it must act, with power to go down to the counties. They can go to the rural districts, where officers in charge of elections, as we know, as a matter of fact, are not very well trained in law, and not very capable of getting up the returns as the returns should be. Perhaps in some cases, if you take these returns and compare them with the law, there would be such substantive defects in them as that the Joint Convention, hearing the matter, would hold them so defective as to require them to declare for the counties what the results were, and especially might that be true, Mr. President, when there was a dominant political faction after a contest of that kind. In the meantime the man who is elected on the face of the returns, is held out of his office by a sort of bybrid, half ministerial, half judicial and largely political investigation—a new system of tribunal foisted upon the people of Alabama.

We say that when we come to consider it in these various aspects, that we think it would be an error to make the change recommended by the Committee; that it would be against right and justice, so to alter this Section of the Constitution as to put these questionable changes into it and give to the Joint Convention these questionable powers. While it remains as it is, they meet, and upon the face of the returns declare the result; and then, under the present Constitution, as it now is, there follows the provision that a contest may be had before them, in Joint Convention, under such rules and regulations as may be prescribed by law.

And here arises another objection—the prescribing by law. When you begin to give the particulars of how the laws should be executed, and what shall be done in detail, in Constitution making, you always run the risk of going apart from the legitimate office of the Constitution and descending into the domains of simple legislation. There is a well defined distinction between the two, the office of a Constitutional provision and the office of a legislative enactment. The Constitution has finished its office, when it declares and defines the frame of Government and the general principles of that Government, and sets out and secures the personal liberties of the people. It is the office of legislation to go into details, but not a Constitution, and it is just at this point, that we run against the danger. We put into this Constitution, in the first Article that is passed upon by this Convention the dangerous precedent of permitting this Constitutional Convention to go into the domain of legislation, instead of keeping in the bounds of what legitimately comes within the purview of the Constitution. And, Mr. President, we might go on ad infinitum with reasons why this charge should not be made in our present Constitution, but will not pursue the subject further. And inasmuch as we choose between what appears to be the evil of the substitute and that of the Section as reported by the Committee, I for one shall vote for the substitute offered by the gentleman from Sumter, although, if I had a chance to vote it down, so as not to leave a worse one before us, perhaps I would object to both of them.

MR. DUKE—This convention has been listening for nearly two days to the able arguments on this subject, and it appears to me that a majority of the orators have spoken on it, if not all of them, and I think this convention is sufficiently enlightened on the subject, and I do not believe, Mr. President, that there is any one in this convention now so eloquent and so logical as to be able to change the vote of any delegate upon this floor. I think every delegate has made up his mind as to how he will vote on this question, and I do not see any reason for protracting this debate, at the cost of a thousand dollars a day, when there is no good to come of it. I therefore move the previous question.

MR. ROGERS (Sumter)—As the mover of this resolution, under the rules of this body, I have the right to close?

MR. DUKE—After the question is put to the House.

THE PRESIDENT pro tem—The Chair concedes the right of the gentleman to close, but the previous question has been called; is the call for the previous question sustained?

The main question was ordered.

MR. ROGERS (Sumter)—I desire to yield the time allotted to me, to Judge Robinson of Chambers to close this debate.

MR. ROBINSON (Chambers)—I have listened carefully and attentively to the able, long and prolonged argument of the gentleman from Montgomery, giving his construction of this section of the Article reported by the Committee on Executive Department, and every step he took was along a precipice that was dangerous to the peace and prosperity of the State of Alabama.

Now, he concedes himself, that this is a Returning Board, but a very small returning board. Now, Mr. President, I will ask the delegates to this convention who is to construe that section the member from Montgomery, or the joint convention that sits and before which this vote is counted. Possibly the member from Montgomery will not be present. Possibly he may not be a member of that joint convention, and if there are differences of opinion in this body, and if there are some of us that construe it to mean that the door is open, why may not that joint convention construe that the door is open to have a judicial investigation of the matter.

Now, Mr. President, he concedes that this joint convention acts judicially, to a limited extent. What is a judicial tribunal? It is a tribunal that has the power to hear and to determine. If it has the power to hear and determine, it has the power to hear and determine the whole case, and that convention is the body that construes it and acts upon it. Now what do we have here. We have the same body that has a judicial investigation to establish a prima facie right, and if a contest is inaugurated, we have the same judicial tribunal to try over the same case, and make the final decision. Now isn't that so. Now they would probably say, why go into these two judicial determinations on the question.

Mr. President the object of that provision under the constitution of this State, and the constitution of the United States and of all of the States, is that the Speaker shall stand there as a simple machine. What power has the joint convention under the old construction? Simply to be present and hear. Now that power is delegated to the Speaker, because there is no other State officer who can take those returns and count them up and declare the result. Why? Because they are all elected at the same time. Every State officer is elected at the same time, except the judges of the Supreme Court, who possibly have two years longer sometimes, but the next time they are elected at the same time, and then there is no machinery at all, by which you can say, you must meet and open these returns and declare the result.

Mr. President, this is dangerous because the danger will only rise when there is a close contest between two parties. That is the question that the General Assembly will be divided on politically as the two candidates for Governor are divided politically. Let us look at the practical results, and illustrate how this will operate. The Speaker opens the returns, and a gentleman objects;

he objects on the ground that it is a fraudulent return, that the officers did not sign it. That is a question to be determined by the court that this committee has established. What will they do? Hear the testimony of one witness? No, Mr. President, they will hear the testimony of all witnesses, and arrive at the fact. is that a fraud, is that a forgery, and on that question they sit as a court and they must hear all the testimony and all the argument that may be brought up in this joint convention. It would take possibly three or four days to determine one county, and every county is subject to the same exception and the same objection and same investigation.

MR. JONES—Could not the Joint Convention now, if they were mean enough, throw out a good return that was not objectionable, in order to elect a Governor or State officer of any party?

MR. ROBINSON—They could not, because they have no power. The Speaker would declare that the man was elected, and that Joint Convention could make no other declaration, and the courts of the country under that power would say that the Speaker was the party to declare the result and not the Joint Convention.

MR. JONES (Montgomery)—Could not the Speaker, if he was mean enough to do it, throw out the return, and elect his man, on the ground that the return was wrong.

MR. ROBINSON—Yes, and that is simply what the Joint Convention is there for, to be present and see that he declares the result, as it appears upon the face of the returns, and that is directly and simply the substitute offered by the gentleman from Sumter.

Now, Mr. President, if that investigation could be prolonged, by an able and astute and profound lawyer as the gentleman from Montgomery, he could consume two or three days in the examination of witnesses, and how are you going to stop it. Here is a court with this question before it. And it would be so with every county where the objection was raised. If you come here and establish a judicial tribunal to establish a prima facie right, and when a contest comes into the other end of the Capitol, the same court institutes and carries on another judicial tribunal to establish and ascertain the same results. Mr. President, that is dangerous. The policy of this State, and of other States, has been that this Speaker sits there as a machine, and if we could adopt a machine that we could dump their returns into from the different counties, and turn a crank and grind out how many votes each candidate received, and who was elected, that would serve the purpose of the Convention, and the policy of the State, as well as the speaker does. If you examine the old Constitution you will

see that it says the Speaker shall open and declare the result in the presence of the Joint Convention composed of both branches of the General Assembly. Now, Mr. President, what is the great danger here? We have got to trust the report of the county officers. They are sworn to discharge their duty. The public knows what the election has been declared and I do not think that you could find any Judge of Probate, or any Circuit Clerk, or any Sheriff, that would send his name to perdition in the estimation of the people, by saying that a candidate received 100 votes, when he received 500 votes and you all know it. It never has been done; it will never likely be done, and this is only to establish the prima facie case. That is all that the Joint Convention and the Speaker should be allowed to do. It is dangerous the other way. Whenever you open the door for an investigation, you cannot say when it shall be shut. You cannot say how far it shall be opened. You cannot say how far we will go, but that Joint Convention may go and determine that this man ought not to have the prima facie case, because he was fraudulently elected.

THE PRESIDENT pro tem—The question before the Convention is the adoption of the substitute offered by the gentleman from Sumter, and the report of the Committee.

MR. ROGERS (Sumter)—And upon that question I demand the ayes and noes.

The call was sustained, the roll call resulted as follows:

AYES.

Ashcraft,
Banks,
Barefield,
Blackwell,
Boone,
Brooks,
Burns,
Carnathon,
Case,
Chapman,
Cobb,
Cornwall,
Cunningham,
Davis, of DeKalb,
Eley,
Espy,
Grayson,
Greer, of Perry,
Haley,
Heflin, of Chambers,
Henderson,
Hood,
Jenkins,
Jones, of Hale,
Jones, of Wilcox,
Kirk,
Ledbetter,
Leigh,
Locklin,
Lowe (Lawrence),
McMillan (Wilcox),
Martin,
Maxwell,
Merrill,
Miller (Wilcox),
Moody,
Morrisette,
Murphree,
NeSmith,
Norman,
Oates,
O'Neill (Jefferson),
Opp,
Parker (Elmore),
Pearce,
Pillans,
Pitts,
Reynolds (Henry),
Robinson,
Rogers (Lowndes),
Rogers (Sumter),
Searcy,
Sentell,
Smith, Mac. A.,
Sollie,
Sorrell,
Thompson,
Walker,
Weatherly,
Whiteside,
Willet,
Williams (Elmore),
Wilson (Clarke),
Wilson (Wash'gton),

Totals—64.

NOES.

Bartlett,
Beddow,
Byars,
Cardon,
Cofer,
Dent,
Eyster,
Ferguson,
Fitts,
Foster,
Freeman,
Gilmore,
Graham, of Talladega.
Handley,
Harrison,
Hinson,
Hodges,
Howell,
Jackson,
Jones, of Montgomery,
Knight,
Lomax,
Macdonald,
McMillan (Baldwin),
Malone,
Mulkey,
O'Neal (Lauderdale),
Pettus,
Phillips,
Porter,
Reynolds (Chilton),
Samford,
Sanders,
Sanford,
Selheimer,
Sloan,
Smith, Morgan M.,
Spears,
Tayloe,
Watts,
Weakley,
Whiteside,
Williams (Barbour),
Williams (Marengo),

Totals—44.

ABSENT OR NOT VOTING.

Messrs. President,
Almon,
Altman,
Beavers,
Bethune,
Browne,
Bulger,
Burnett,
Carmichael, of Coffee,
Carmichael, of Colbert,
Coleman, of Greene,
Coleman, of Walker,
Craig,
Davis, of Etowah,
DeGraffenreid,
Duke,
Fletcher,
Foshee,
Glover,
Graham, of Montgomery,
Grant,
Greer, of Calhoun,
Heflin, of Randolph,
Howze,
Inge,
Jones, of Bibb,
King,
Kirkland,
Kyle,
Long (Butler),
Long (Walker),
Lowe (Jefferson),
Miller (Marengo),
Norwood,
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Proctor,
Reese,
Renfro,
Smith (Mobile),
Spragins,
Stewart,
Studdard,
Vaughan,
Waddell,
White,
Winn.

During the roll call:

MR. DUKE—I would vote no on this question, but I am paired with the delegate from Greene, Judge Coleman, who would vote aye.

MR. KYLE—I would vote no, but I am paired with the delegate from Walker, Mr. Long.

So the substitute was adopted.

MR. BOONE—I move the adoption of the section as amended by the adoption of the substitute.

A vote being taken the section was adopted.

MR. O'NEAL—I desire to ask unanimous consent to introduce a resolution.

"Resolved, That the report of the Committee on Local Legislation be made a special order for consideration immediately after the conclusion of the consideration of the report of the Committee on Preamble and Declaration of Rights.

MR. O'NEAL—This morning I made a motion that the report of the Committee on Local Legislation be made a special order immediately after the report of the Committee on Preamble and Declaration of Rights which Committee received unanimous consent to have its report considered and made a special order following the special order we are now considering. The refusal of the Convention to accord the same courtesy to the Committee on Local Legislation, could only be construed as a discourtesy, which I am sure was not intended. I think the refusal of the Convention to allow this report to be made a special order was due to a misunderstanding which seems to have occurred between the Committee on Local Legislation and the Committee on Legislative Department. I desire to say the Chairman on the Legislative Department has agreed to submit a supplemental report as to any matters to which that Committee objects in the report of the Committee on Local Legislation, which supplemental report can be considered at the same time the report of the Committee on Local Legislation is considered. He agrees with me it would be utterly impossible for this Convention to consider the report of the Committee on Local Legislation and the report of the Committee on Legislative Department at the same time. We have agreed, therefore, that the report of the Committee on Local Legislation and the supplemental report which the Committee on Legislation Department may submit covering any objections they may have to any part of the report of the Committee on Local Legislation, may be considered at the same time; and, therefore, I renew my request and ask unanimous consent to have this report made a special order immediately following the report of the Committee on Preamble and Declaration of Rights.

MR. WEATHERLY—I would suggest that the latter part of the agreement about the supplemental report should be added to your resolution.

MR. BURNS—I rise to a point of order. That is out of order without a suspension of the rules.

MR. O'NEAL—I have moved that the rules be suspended.

MR. HEFLIN (Chambers)—What is the gentleman's answer to the question just propounded?

MR. O'NEAL—I consent that that be embodied in it.

MR. HEFLIN (Chambers)—That the supplemental report shall be considered at the same time the report of the Committee on Local Legislation is considered.

MR. O'NEAL—Yes.

Upon a vote being taken the rules were suspended.

MR. O'NEAL—Now, my motion is that the report of the Committee on Local Legislation, and any supplement report submitted by the Committee on Legislative Department, shall be made a special order, immediately after the consideration by this Convention of the report of the Committee on Preamble to the Constitution and Declaration of Rights.

The resolution was read, and upon a vote being taken the resolution was adopted.

MR. WILSON (Clarke)—I desire to make a report for the Committee on the Journal.

The report of the Committee was read, stating that the Journal for the twenty-sixth day had been examined and found to be correct. On motion of Mr. Boone (Mobile) the report was adopted.

MR. CARNATHAN—I ask leave to introduce a resolution.

MR. JONES (Montgomery)—I inquire of the gentleman if it will take up much time.

MR. CARNATHAN—No, it is very short.

The resolution was read as follows:

Resolved by the people of Alabama in Convention assembled, that hereafter no member shall speak longer than ten minutes nor more than twice on the same subject.

Referred to the Committee on Rules.

MR. JONES (Montgomery)—I ask that we now take up the next section in the report of the Committee on Executive Department.

I think we are at Section 23.

Section 23 was read as follows:

Sec. 23—The Secretary of State shall be the custodian of the Seal of the State, and shall authenticate therewith all official acts of the Governor; his approval of laws, resolutions, appointments to office and administrative orders, excepted. He shall keep a register of the official acts of the Governor, and when necessary,

shall attest them, and lay copies of same, together with copies of all papers relative thereto, before either House of the General Assembly when required to do so, and shall perform such other duties as may be prescribed by law.

MR. JONES (Montgomery)—I move the adoption of the section.

MR. EYSTER—I move to amend by adding the word "great" just before the word "seal."

THE PRESIDENT PRO TEM.—The gentleman will send up his amendment.

MR. JONES (Montgomery)—I will state to my friend that that is the language of the Constitution now, and there is no seal of the State except the Great Seal, and for that reason we did not put the word "great" in there.

MR. SAMFORD—I move that the amendment of the gentleman be laid on the table.

THE PRESIDENT PRO TEM.—The amendment has not yet been prepared.

The amendment was thereupon sent to the clerk, and read as follows:

Amend by adding the word "great" before the word "seal" in the first line.

MR. SAMFORD—Now I move that it be laid upon the table.

The motion to table was carried.

The President here resumed the chair.

MR. SAMFORD—I now move the adoption of Section 23.

The motion prevailed and the section was adopted.

THE PRESIDENT—The Secretary will read the next section.

Section 24—All grants and commissions shall be issued in the name and by the authority of the State of Alabama, sealed with the Great Seal and signed by the Governor and countersigned by the Secretary of State.

MR. JONES (Montgomery)—I move the adoption of that Section.

The Section was adopted.

THE PRESIDENT—The Secretary will read the next section.

Section 25 was read as follows:

Sec. 25.—Should the office of Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Education, or Commissioner of Agriculture and Industries become vacant, for any cause, the Governor shall fill such vacancy until the disability is removed or a successor elected and disqualified. In case any of said officers shall become of unsound mind, such unsoundness shall be ascertained by the Supreme Court upon the suggestion of the Governor.

MR. JONES (Montgomery) — I move the adoption of that Section.

The Section was adopted.

THE PRESIDENT—The Clerk will read Section 26.

MR. COBB—I move the consideration of Section 26—

MR. JONES (Montgomery)—If the gentleman will permit me, I will say something that will do away with that and make his motion unnecessary.

Sec. 26. The Governor, Lieutenant-Governor and Attorney-General are constituted a Board of Conciliation, for the adjustment of differences between employer and employe engaged in mining, manufacturing, transportation, or other lawful industries, to which Board may be added in each case coming before it, two citizens of this or of some other State of the Union, to be appointed by the Governor. The Board may propose arbitration before it of any such dispute, whenever it deems proper; and in its discretion may hear such disputes when requested by either parties thereto. In all cases coming before it, the Board shall pass on the merits and recommend in writing what ought to be done to adjust the dispute or difference. Its judgment or award shall be advisory merely, unless both parties agree in writing, in advance, to perform the award, when it may be enforced by appropriate proceedings in the courts, under such rules and regulations as may be prescribed by law. The Board shall have the power to compel the production of papers and the attendance of witnesses in matters germane to the dispute or difference under such rules and regulations as may be provided by law.

MR. BEDDOW—I desire to offer a substitute.

THE PRESIDENT—The gentleman from Montgomery has the floor.

MR. JONES (Montgomery)—I am going to move, after explaining why I do it, to lay this Section on the table, and then the gentleman can offer the substitute.

MR. BEDDOW—I will yield if the motion to lay on the table does not deprive me of the privilege of offering the substitute.

MR. JONES (Montgomery)—I do not wish to deprive the gentleman of the privilege of offering his substitute but the Committee is going to ask to lay the Section on the table.

MR. BEDDOW—If it is laid on the table, I think it would deprive me of the privilege of offering the substitute.

MR. JONES (Montgomery)—Then I yield for the purpose of allowing the gentleman to offer the substitute, if he will yield in order that I may dispose of the Committee's report.

The substitute was read as follows:

Amendment to Section 26, Executive Department, by Beddow of Jefferson:

Amend by striking out Section 26 and insert the following in lieu thereof:

Section 26. A Board of Arbitration is hereby created of which the Commissioner of Agriculture and Industries shall be ex-officio Secretary, and said Board shall be composed of five members two of whom shall be appointed by the employer, two by the employes, and one by the four members hereinbefore provided for. When any dispute shall arise between employer and employe in this State each party to such dispute shall notify the Secretary of the Board of Arbitration of their intention to submit such dispute to arbitration and each party to such dispute shall certify to said Secretary the names of the two persons selected by such party to act as arbitrators. The Secretary of the Arbitration Board shall forthwith call and commission the Arbitrators so named to meet at the Capitol, who shall proceed to organize by electing a disinterested person to act as such fifth member of said Board. The Board so organized, shall take cognizance of such disputes only as are voluntarily submitted to it for adjudication, but the Secretary shall have power to enforce in the court all of its awards. The Legislature shall, at its first session after the adoption of this Constitution enact laws for the enforcement of the awards of the Board herein created and provides compensation for the members thereof.

MR. SAMFORD—Mr. President—

THE PRESIDENT—The gentleman from Pike—

MR. JONES—I yielded the floor, as I understood it, with the distinct understanding with the chair and the gentleman from Jefferson, that as soon as his substitute was read, I could resume the floor, and state why the Committee withdraws the article that it reported.

MR. SAMFORD—I have no objecion to that. I was on the committee myself. If I have the floor, I yield it to the Chairman of the Committee.

THE PRESIDENT—Ordinarily the mover of the resolution would be entitled to recognition after introducing his resolution. The gentleman from Jefferson, and the gentleman from Montgomery made some arrangement about the floor that the chair did not hear exactly.

MR. BEDDOW—I desire, Mr. President, only to make an explanation as to why I offer that as a substitute for the sec.

MR. JONES—Of course I will not stand in the way of my friend from Jefferson, but I started to state the Committee was going to withdraw this article, but we wanted to give the reasons for its withdrawal, and after that I was going to move to lay the section on the table. My friend from Jefferson said that would prevent his putting in his substitute, and I said I had no objection to yielding the floor for the purpose provided he would allow me to speak as to the reasons why we want to lay on the table the section reported by the committee.

THE PRESIDENT — The gentleman from Jefferson may make his explanation.

MR. JONES—I yield the floor to him for that purpose.

MR. BEDDOW—Mr. President, when the Committee on the Executive Department made their report, I for one, was willing to adopt it as a whole, but I am one of the delegates from the largest County in the State of Alabama, and within whose domains there are more laborers than I suppose any three other countries of the State. After this report of the Committee on the Executive Department had been printed and got into the hands of my constituents, members of this Convention began to receive communications from the various labor organizations throughout the State, opposing the section as reported by the Committee. They maintained that a Board of Arbitration or conciliation, as the case may be, in the words of this section amounted to nothing. I immediately put myself in communication with my constituents, and I had a favorable opportunity to do so, because the delegates to the United Iron Workers Convention was in session in the city of Birmingham, and is no win session, and I inquired of them as to their desire in this matter. I will say to this convention that that body of men represent from six to ten thousand laboring people in the district from which I hail and the amendment that I have offered as a substitute to this section is the embodiment of what they themselves desire, and which they themselves drafted and sent to me, and which I introduced on yesterday. I have changed the language somewhat, so as to make it applicable to this article that is now under consideration, but

the substance in its entirety is as they desire. I have no desire, except to cast my vote, and lift my voice in behalf of what they themselves desire. They have represented that by the assemblage that is now assembled in the city of Birmingham, and as this body has not been worried by petitions from any laborers throughout the State as they have left all the matters entirely to the discretion of this convention, and as this is the only thing that they have asked at the hands of this convention, I feel that it is the duty of this body of gentlemen to give it to them. There is no use in our putting an article or section into the constitution, constituting the Governor, the Secretary of State and Attorney General a mere advisory board, but should this section that I have introduced as a substitute, be enacted into law, it leaves it with both the employer and employe to determine for themselves whether or not they shall submit their matters to arbitration. If they agree to that, this amendment affords them the opportunity to select their own arbitrators, and it is not fixed by the constitution in an arbitrary way. It affords the same opportunity to employer to select his two arbitrators and these four men select the fifth man, and it also provides that when they consent to it, that the award of the arbitrators shall be final, and that the legislature shall pass such laws as will enforce this award of the arbitration board. This is a small request from this large citizenship of the State. It is a small thing for us to recognize, and I hope, before this convention turns it down that they will give it the consideration that it deserves.

MR. GRAHAM (Talladega)—I would like to ask the gentleman a question. Does this substitute that is offered, contemplate the creation of five constitutional offices that would carry salaries?

MR. BEDDOW—It constitutes a Board of Arbitrators, two to be selected by the employer, and two by the employe and those four select the fifth. The ordinance provides that in case of dispute, they shall select the Board, and it also provides that the Legislature shall provide such compensation as in their description they may see fit to pay for their services.

MR. O'NEAL—What is the term of office of these Arbitrators?

MR. BEDDOW—These Arbitrators have no terms of office. In case of any dispute arising, they are selected, and when that dispute is over, their term is out.

MR. O'NEAL—There are different arbitrators for every dispute?

MR. BEDDOW—Yes Sir.

MR. O'NEAL—But the Commissioner of Agriculture is to be a permanent arbitrator?

MR. BEDDOW—He is ex-officio secretary of the Board, for the purpose of calling them together, and he is already provided by law with expense money with which he could defray his necessary expenditures in these matters.

MR. CUNNINGHAM—I ask the Chairman of the Committee if he will yield the floor for a minute. I rise merely to call the attention of the delegates who were present at the meeting at Birmingham, a while before the election, that my understanding of what meeting was that this convention would in no way interfere with the rights and the privileges of organized labor. A committee of the Trades Council composed as it is of labor organizations of different kinds in the county of Jefferson, waited upon the delegates then present, and a resolution was introduced, granting the request that they made. It strikes me therefore that gentlemen on this floor who voted affirmatively on that question in the city of Birmingham, would be violating a covenant into which they entered and agreed. The substitute offered by my colleague of Jefferson is from the largest body of organized labor in the county of Jefferson. Not only the largest, but probably the most influential, and also the most important, but I do not believe that this convention has the right to take up the question here presented by one particular class of organized labor, and enact it or ordain it, into the constitution, over the pledge made to the Trades Council, which represents all of the different sub-divisions of organized labor. There is one other point, Mr. President, which refers to the merits of the question. I myself favor arbitration. I have been informed by competent lawyers that this can be done by the legislature unless the Constitution restricts it. There is no proposition pending, nor will any be introduced into this convention, prohibiting the legislature from providing for Boards of Arbitration. If there was such a provision I should feel it my duty to vote against it. But inasmuch as the legislature can establish these Boards of Arbitration, defining their duties, their salaries and all things necessary, it strikes me we should not place it in the organic law, and for these reasons I feel that it is my duty to oppose not only the original section offered by the Committee, which it seems they are anxious to get rid of, but also the substitute offered by my colleague from Jefferson, and I hope that it will not prevail.

MR. BEDDOW—I would like to ask the gentleman a question before he takes his seat.

MR. CUNNINGHAM—Certainly.

MR. BEDDEW—Do you understand that the pledge made to the laboring people of our district, when the delegates were assembled in Birmingham, was that we would not do anything in this convention looking to the good of the working people.

MR. CUNNINGHAM—No sir.

MR. BEDDOW—Was it not their request that nothing be done that would injure.

MR. CUNNINGHAM — Or in any way interfere with the rights and privileges and immunities of organized labor.

MR. BEDDOW—Yes, but not as to those things that look to their good.

MR. CUNNINGHAM—Well, I admit that they would not ask this Convention not to do anything that would look to their good, but they seemed, on that occasion, to interpret that it would not be to their good for this convention in any way to interfere with the rights and privileges, I will say to my colleague from Jefferson, is the adjustment of wages. The miners' organization adjusts its wages, not the Trades Council. The brick layers' organization adjust their wages and not the Trades Council, nor the Miners' organization. The Amalgamated Association of Steel and Iron Workers adjust their wages, separate and distinct. Therefore if this ordinance should obtain and become a part of the Constitution, I undertake to say that while the intention of it might be good, and it might in reality be to the benefit of the laborer yet I would say that it would take away from them, largely at any rate, their system of regulating wages, as it now exists. The miners, for instance, have a sliding scale, and it would transfer from organized labor to this Board of Arbitration this question of the settlement of wages, and for that reason I do not believe that we should place it in the Constitution.

MR. BEDDOW—I would like to ask the gentleman a further question. Does the gentleman from Jefferson understand that the substitute offered by me requires them to submit to arbitration.

MR. CUNNINGHAM—No sir, I understand it to say that it was optional.

MR. BEDDOW—Purely voluntary, whenever they desire to.

MR. deGRAFFENREID — Cannot they do that now, Mr. Beddow, without any law?

MR. BEDDOW—I presume they could without any law. But this is at their request.

THE PRESIDENT—The question is on the substitute offered by the gentleman from Jefferson.

MR. GRAHAM (Talladega)—I move that this Convention do now adjourn until 12 o'clock on Monday—

MR. O'NEAL — I make the point of order that under the rules, we adjourn until 3 o'clock. The rule takes effect today.

Additional leaves of absence were granted, Mr. Proctor for Monday, Mr. Hodges for Monday, Tuesday and Wednesday, Mr. Ledbetter for the 24th and 25th, and Mr. Opp of Covington for this afternoon.

The Chair made a number of announcements.

MR. O'NEAL (Lauderdale) — I rise to the point of order that under the rules this Convention is now adjourned.

THE PRESIDENT—The point of order is well taken, and the Convention stands adjourned until 3 o'clock this afternoon.

AFTERNOON SESSION

The Convention reconvened at 3 o'clock p.m. Upon a call of the roll, one hundred and one delegates responded.

The following additional leaves of absence were granted: Mr. Banks for today and also for the 13th; Mr. O'Neal for Monday; Mr. Cornwall for this afternoon.

MR. BURNS—I ask unanimous consent to introduce a resolution by request

The resolution was read as follows:

Resolved, that it shall not be considered a breach of etiquette for members of this Convention to wear shirt-waists at the afternoon session of the Convention.

THE PRESIDENT—The resolution is out of order.

MR. FITTS—I desire to offer a very short resolution.

MR. deGRAFFENREID—I believe that the matter was before the House when we adjourned for dinner was the resolution of the gentleman from Birmingham which was offered as a substitute for the report of the Committee to Section 26. I move that that resolution be laid upon the table.

MR. BEDDOW—On that I call for the ayes and noes, and I hope there are enough delegates here who will sustain the call.

MR. deGRAFFENREID—I want to say, Mr. President, that if the gentleman from Birmingham desires to make any further remarks upon the subject. I will withdraw the motion for that purpose, but for that purpose alone.

MR. FERGUSON—I also desire to say a word on that proposition.

THE PRESIDENT—The question is, is the call for the ayes and noes sustained?

The call was not sustained.

THE PRESIDENT—The question is on the motion of the gentleman from Hale to lay upon the table the substitute offered by the gentleman from Jefferson.

The motion to table was carried upon a viva voce vote.

THE PRESIDENT—The question recurs upon the original Section as reported by the Committee.

MR. O'NEAL—I have an amendment to offer.

MR. JONES (Montgomery)—I had the floor. Mr. President, I will state that in drawing this provision, the Committee was conforming to what they believed to be the wishes of a large number of the employes and of a good many employers. We simply wished to have a Board, a part of which was constituted in advance, which could offer its good offices. We learned afterwards that there was considerable objection on the part of the employers of labor who thought that the publicity might not be agreeable, and some of the laboring men themselves did not like the Constitution of the Board, and those are the reasons, without going into the details of all the provisions of the Section, why the Committee is now willing, and I move in their behalf, to lay the Section as reported by the Committee, on the table.

Upon a vote being taken the motion to table was carried.

MR. BROWNE—I desire to offer an amendment to the report of the Committee on the Executive Department.

THE PRESIDENT—To what Section?

MR. BROWNE—It will be Section 26 as proposed, to be inserted for Section 26.

MR. ROBINSON—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. ROBINSON—There is nothing before the Convention.

MR. deGRAFFENREID—There is no Section 26.

MR. SAMFORD—There is nothing before the Convention to amend. The Section has been laid upon the table, and cannot be amended while it is laying on the table.

MR. BROWNE—I do not propose to amend that Section, but to amend the report. The whole report is before the body, and subject to amendment.

THE PRESIDENT—The whole report is not before the Convention at this time. The question would be confined to the particular Section. It seems to the Chair that unless the gentleman moves to take the Section from the table—

MR. BROWNE—I do not desire to amend the Section at all, but it is to insert a Section.

THE PRESIDENT—The gentleman might add it as a Section to the entire report, as an additional Section.

MR. BROWNE—Yes, but there would be the same condition after the whole report is adopted; there would be no Section before the House, and there being nothing before the body, it would be out of order.

THE PRESIDENT—At that time the whole report would come up for consideration. Read the next Section.

The Clerk read Section 27, as follows:

Sec. 27. The Governor, Auditor and Treasurer, or the Governor and either the Auditor or Treasurer, when there are funds in the Treasury not immediately needed, may loan out the same on call, for such time and at such rate of interest, as they may deem advisable, taking as collateral, bonds of the United States, or of this State, to the fuli value of the amount loaned, and the interest agreed to be paid therefor; such loans shall not be made until after one week's public notice, through some paper published at the Capital, and a record of such loans shall be kept in the office of the Auditor, and reported by the Governor to the General Assembly at its next meeting.

The Committee's amendment to the Section was then read: "Amend by adding after the words 'as they may deem advisable' in the third line, the following words, 'to the best bidder.'"

The minority report of the committee was read, as follows:

And he further recommends that Section 27 (which relates to the loaning of money in the State Treasury) as reported by said Committee, be stricken out and do not pass.

Respectfully submitted,

Watkins M. Vaughan.

THE PRESIDENT—The question is on the adoption of the minority report.

MR. HANDLEY—As I understand it, there is a majority report, a minority report, and an amendment. I desire to offer a substitute for all of them.

The substitute was read as follows:

"That if at any time there is a surplus in the State Treasury above the needs of the State Government, economically administered, it shall be the duty of the Governor to report that fact to the General Assembly, and in that event it shall be the duty of the General Assembly to reduce the rate of taxation allowed by this Constitution, in the proportion that such surplus bears to the ordinary expenses of the State Government, honestly administered.

MR. HANDLEY—It pains me very much to disagree with this committee, and especially the distinguished Chairman, but as I understand it, this is a proposition to go into the loan business, and to loan out the money belonging to the people of the State. I am unalterably opposed to the State of Alabama going into any business whatever. She has been in business frequently. Eleven years before I was born, sir, they went into the banking business. In 1823 and in 1832 and '36 they established three branch banks, one at Montgomery, one at Mobile and the other at Decatur, and in 1841 and 1842 they went into liquidation, and today we are paying taxes on three or four millions of dollars in bonds, and have been paying it for sixty years nearly—

MR. JONES (Montgomery)—A thousand dollars a day.

MR. HANDLEY—No, not that much I reckon. This State, when it went into the banking business issued bonds to an amount of fourteen millions of dollars, and the record shows it. They went into the banking business, and the result was they lost in the liquidation, and in the final wind up, three or four millions of dollars, and the people of Alabama have been paying interest on that money ever since.

That is not all. In 1868 or '70, when this State was under Republican rule, they loaned the credit of the State to the extent of sixteen thousand dollars per mile, for railroads. What was the result? Alabama was found to be in debt about thirty or thirty-two millions of dollars. In '74 the Bald Eagle of the mountains was elected Governor, Mr. George S. Houston, and he came down here, sir, and with his Legislature he reduced that debt to about ten millions of dollars.

I have been connected with the financial world for thirty or forty years, and I know it is almost an impossibility for any law, or anything to be contrived with sufficient security to take the people's money out of the treasury. I have studied it a long time. I have been to Boston, New York and elsewhere, and I know it is a troublesome thing, and I do not want the State of Alabama to go into the loan business at all, at any price.

They say there is no danger, you have United States bonds as collateral. Well, I am just from New York only a few days ago, and if a man in Alabama owns United States bonds, he can

go to New York and borrow his money at 2 per cent, per annum. If he owns Alabama bonds he can get it very cheap. Under all the circumstances it is a dangerous thing. We have never opened the treasury, and we have never loaned the credit of the State of Alabama, without being paralyzed, so to speak, and I am opposed to it. I think it is a bad precedent to set, and I hope that this Convention will strike out that Section 27, and knock out the minority report and amendment, and let us establish sir, this idea: That if the treasury of the State of Alabama is overflowing let it be the duty of the Governor to notify the Legislature of the fact, and then reduce the taxes. I understand that our treasury has got some money in it now; later on they will have more money. My idea is for the people to hold it in their pockets. I do not want a rich government and a poor people. I would like to have a rich government though, and a rich people.

Now, sir, I know the point is going to be made, that you want this money in circulation. Well, I have had a great deal of experience along that line. I have loaned money and I have borrowed money, and my idea is when you loan out large sums of money that it is sometimes very difficult to get it back, even if you do have gilt-edge security. Then there is a chance for litigation, and long litigation to come up, and we have never, until this day, opened the vaults of the treasury of the State of Alabama without we lost money. That is my experience, and I have been watching it a long time. I do not want to loan her credit or her cash. If we ever get too much cash in the treasury, I want the taxes reduced, and collect less from the people.

Now that is my idea, from a business standpoint, but I know the point will be argued that it will flow among the people. Yes, and it is dangerous. It is hard to get back, when you get it out and it gets to circulating for hundreds of miles over Alabama or somewhere else.

Then, we have got very few United States bonds in Alabama, and they are registered and registered bonds would not be worth a cent as collateral, because they are registered at Washington, and some expert lawyer might pass on the collaterals and make a mistake right there. Then there is another fact, which is, that money is a thing that takes wings and flies away. It is a dangerous article to handle, and I do not want Alabama to go into business, and I trust that it will not do so. Now, sir, it looks just like we would hold the strings all the time, but the political world is sort of like the financial world, about every ten years there is a collapse, one way or the other. You know the financial world about once in ten years gets down to rock bottom, and everything is hard, hard to manage and it is hard to get money at any price or in any way, and politics is pretty much the same way. There might come a tidal wave, like in 1892, and

do some harm, and somebody else might have charge of the Treasury, and the doors would open.

Now, sir, I am opposed to it. I am emphatically opposed to this measure, and I have got a substitute that simply means that if you have got an overflowing treasury, reduce the taxes of the people, and that is the way I stand on it. It is dangerous to do otherwise.

I might say something else, I suppose, but I think you understand my position. The State of Alabama issued fourteen millions of bonds, and sold them, and went into the banking business, and then way back in sixty-eight, or seventy they signed bonds for the railroads, sixteen thousand dollars a mile, and got bit again. It is a dangerous thing. How many banks, and loan institutions, with millions behind them, with the best talent that can be found, men of experience to conduct their affairs, have gone into bankruptcy in the last few years I just ask that question. How many banks have gone into bankruptcy, or liquidation, with millions of dollars behind them? I will tell you, gentlemen, there is nothing sure about large amounts of money. There are schemers and sharpers, and others who will get control of it, and if they cannot do it one way, they will work some other way, and it is a dangerous experiment, and I trust you gentlemen, and especially you gray-haired men that have had some financial experience, will consider this thing, and vote against this resolution. (Loud applause).

MR. SAMFORD—The proposition in section 27 is to loan the money, when there is a surplus, to any individual who has State bonds or United States bonds. I am utterly opposed to the class legislation which that of itself promotes. No man in Alabama, if he is worth millions, could borrow a dollar from the Treasury of the State, unless he should own State bonds, or United States bonds. How many men in this Convention hold State bonds, or United States bonds. It is in favor of a particular class of men, who usually are too wealthy to require the loans. The poor man, for whose benefit it might be made, is unable to furnish the security. He may have land, but that is no security under the 27th section. It must be State bonds, which he is unable to purchase; it must be United States bonds, which he cannot buy, and therefore he is shut out entirely from what is intended to be a privilege granted by the State, for it is a privilege, for the benefit of the people.

My friend alluded to the banking system here in 1837. We must remember at that time that the State of Alabama issued five millions of bonds, and to this day, we have never paid the debt that was incurred by lending them. We have never been able to collect it entirely. As a basis of the indebtedness of the State, five millions of dollars, largely arising from the issue of bonds for the

purpose of raising money to lend to the people. Much of it was never collected. Our indebtedness today is something over nine millions, and it arises largely from the banking enterprises of the State sixty years ago, and its endorsement of railroad bonds, to which my able friend from Randolph has alluded. I trust that we will not go into banking, for what is it but banking? It is a fundamental principle of the Democratic party to be opposed to all banking, and especially for the government to be connected with banking establishments.

Why in 1831, the Legislature of Alabama passed a resolution, denouncing the United States banks; pretesting against the establishment of a branch of the United States Bank within the limits of Alabama, saying it was a corrupting influence, and it was intended for the benefit only of a class of citizens. They denounced it as unconstitutional, in the first instance, and extremely impolitic in the second. Therefore I hope that we will not try to repeat the folly of 1837, by entering into a banking policy, and that we will stand by the theories of those men of thirty-one who did not wish banks of a particular class established inside of the limits of this Commonwealth. I hope that the substitute will be adopted.

MR. BROOKS—It seems to me that the motion before the House is the adoption or the rejection of the minority report, and it is not in order now to go back to the original report and offer a substitute for that in entirely different form, and entirely different matter. It seems to me we have to dispose of the minority report first. That is the point of order I make.

MR. CUNNINGHAM—I beg to dissent from the opinion of the gentleman from Mobile. The minority report comes in as a report and therefore can be amended, and the question is to strike out and the gentleman from Randolph moves that instead of striking out, that we substitute the amendment that he offers, and I make the point of order that it is germane and is in order.

MR. JONES (Montgomery)—This Committee has placed the convention under obligations in making this report, if for nothing else, because it has been the occasion of a very fine speech from my friend from Randolph.

We were well aware of the history of Alabama in the days of its banking and railroad experience. None of us had forgotten them. We were also aware of a sentiment which has exhibited itself in many legislatures, and at times very strongly among the people, that it was unwise to have a large sum of money in the treasury, which was earning nothing, and which might go into circulation. The proposition therefore, is a plain business one. Is it wise for a trustee, when he has funds which he cannot use immediately, to loan them out on safe security. That is

the whole proposition. It does not involve any question of going into banking. Every man who lends money is not a banker. That is only one of the functions of a bank. It is not a question of the State involving itself in precarious enterprises like it used to, when it went into the banking business, but the whole thing is this, whether we have got, not a surplus taking the year round, but a million or so of dollars in the treasury which we will not need for six months. Now we cannot loan that out except on good security. Is it wise to lend it out at all? If the House is of the opinion that it is not wise to lend it out at all, and it had better stay in the treasury, then as a business proposition, they can vote it down. But it does not involve the proposition of banking, or going into railroads or old United States banks or Federal power. I do not propose on behalf of the Committee to take up any more time on it.

MR. PEARCE—I desire to offer an amendment to the minority report.

The amendment was read as follows:

Strike out the words "on call" in the line three of section 27, and insert after the words "or of this State" in line four, the following words, "mortgages on farm lands, crop liens, farm products, such as cotton, corn, cabbage and potatoes and all other farm products all of which loans shall not be due until the crops are gathered."

THE PRESIDENT—The gentleman's amendment will be in order after the pending substitute is disposed of. The minority report of the committee moves to strike out the entire section. It would have been in order for the minority to have moved to strike out the words contained in the section and add in lieu thereof other words. The gentleman from Randolph moves to amend the report of the minority of the Committee, by moving to add in addition to the motion made by the minority of the Committee to strike out. Therefore it seems to the Chair that the point of order made by the gentleman from Mobile is not well taken. The question will be on the adoption of the substitute offered by the gentleman from Randolph.

MR. JONES (Montgomery)—There seems to be so much opposition to this proposition, that I move to lay on the table the original section, the minority report, and all amendments and substitutes offered on it.

MR. HANDLEY—I object to laying the substitute on the table.

That is the very thing I want. The substitutes comes in any times, all the while; if we ever get an overflowing treasury, you can reduce the taxes.

Upon the motion to table a division was called for, and by a vote of 62 ayes and 21 noes the motion to table was carried.

THE PRESIDENT—The Secretary will read the next section.

Section 28 was read as follows:

Sec. 28. The State Treasurer, State Auditor, Attorney General and the Commissioner of Agriculture and Industries shall perform such duties as may be prescribed by law. The State Treasurer and State Auditor shall every year at a time the General Assembly may fix, make a full and complete report to the Governor, showing the receipts and disbursements of revenues of every character, and all claims audited and paid out by items, and all taxes and revenues collected and paid into the Treasury, and from what sources and they shall make reports oftener upon any matters pertaining to their office if required by the Governor or General Assembly.

MR. MURPHREE—I have an amendment.

Amend Section 28 by inserting after the word "Auditor" in the first line, the word "Secretary of State."

Upon a vote being taken the amendment was adopted.

MR. SAMFORD—I move the adoption of the section.

The section was adopted.

Section 29 was read as follows:

Sec. 29. The State Auditor, State Treasurer, Attorney General, Secretary of State and Commissioner of Agriculture and Industries shall not receive to their use any fees costs, perquisites of office, or other compensation than their salaries as prescribed by law, and all fees that may be payable for any services performed, through such officers, shall be at once paid into the State Treasury.

MR. WATTS—I offer an amendment.

Amend Section 29 by inserting after the word "Secretary of State," in the first line, the word "Superintendent of Education."

MR. GRAHAM (Talladega) — I hope the gentleman will withdraw that amendment, because there are no fees going into the office of the Superintendent of Education. An incidental fund is provided for his expenses, but there is no law by which he receives any fees or commissions or anything of that kind into his office. That is provided for an incidental expense fund.

MR. WATTS—Then I will withdraw it.

MR. WILLIAMS (Marengo)—I move that the section be adopted.

Upon a vote being taken the section was adopted.

The next was read as follows:

Sec. 30. A Sheriff shall be elected in each County by the qualified electors thereof, who shall hold his office for a term of four years unless sooner removed, and shall be ineligible to such office as his own successor. Whenever any prisoner is taken from the jail or from the custody of the Sheriff or his deputy, and put to death, or suffers grevious bodily harm, owing to the neglect, connivance, cowardice or other grave fault of the Sheriff, such Sheriff may be impeached under Sec. 2 of Article VII of the Constitution; and the Governor, when satisfied, after hearing the Sheriff, that he should be impeached, may suspend him from office for such time as he may think proper, until the impeachment proceedings are finally disposed of.

MR. WILSON (Washington)—I desire to offer an amendment: Amend Section 30 by striking from lines two and three the following words, "And shall be ineligible to such office as his own successor."

MR. WILSON (Washington)—I am aware of the fact that this provision is in the present Constitution, and has been there for many years, but the bare fact that a thing was and is, is no good reason that it should be forever. I see no reason why a Sheriff should not be allowed to succeed himself any more than any other county officer. You may as well say that the Tax Collector would refuse to do his duty you ought as well say that the Tax Collector would wink at escapes and would not make up his delinquent list; you might as well say that an Assessor would not do his duty, and, Mr. President, where is there a county officer that has a stronger hold and more influence with the people than the Probate Judges—you might as well say that they would not do their duty. I understand that formerly sheriffs handled the administration of estates of deceased persons to a large degree in this State—that I do not think is the case today. That is the only reason that I can imagine that ever existed for preventing a Sheriff from succeeding himself. Now if we are going to say that the Sheriff shall not succeed himself it is only just to say that no county officer shall succeed himself, and I, for one, do not believe that it is right, just or wise. Now, Mr. President, I do not care to bring about a long discussion upon this matter, and knowing that the Chairman of the Committee will have the right to close the debate, I move the previous question on this amendment.

The motion for the previous question on the amendment was carried.

MR. JONES (Montgomery)—I will say, very briefly, that it has been the law, for many, many years, he is an executive officer, we have put everybody else in a straight-jacket of that sort, and I do not see now why we should depart from the wisdom of our fathers.

MR. WILSON (Washington)—May I ask the gentleman a question.

MR. JONES—Certainly.

MR. WILSON—Would the other county officers be put in the same fix?

MR. JONES—Not that I know of.

A vote was taken on the amendment, which was lost, and the question recurred on the amendment of the gentleman from Pike.

The Clerk read the amendment as follows: Amend Section 30 by striking out that part of the Section after the period in line three.

MR. SAMFORD — I desire to say that at the time of the adoption of this particular Section by the Committee of which I was a member, I gave notice to my brethren on the Committee that I would reserve the right to move to strike out this part of the Section before the Convention, and to state to the Convenion my reasons therefor. Under the law as it now is, sheriffs are elected by the people of a county. They are not elected by the people of the State at large, and they are only State officers in the sense that they are a part of the executive. They are not responsible to the Chief Executive of this State, but they are responsible to the people who elected them. Under the law as it now is, there is a mode provided for their impeachment whenever by neglect of duty, by cowardice, or for other reasons, they fail to perform the duty imposed upon them by law, and the enforcement of that law and their removal from office is placed in the hands of the courts of the county in which they serve. They are all bonded officers, giving perhaps the largest bonds of any class of officers within the State, and they and their bondsmen are liable for any neglect of duty, or any cowardice shown on their part in any respect in the discharge of their duties, and I say to this Convention today that it is a long step towards centralization of government to attempt to remove from the hands of the people to whom the duty is owed, the right to pass upon the impeachment of one of its officers. The argument may be made that as long as you leave it to the juries of the County in which these crimes are committed that no Sheriff will ever be impeached. That argument can never be good unless this Convention declares that the people of the counties are not capable of self-government. It is wrong in principle, it is wrong in practice to

take away from the people of the counties the right to impeach the officers that they now have and remove the impeachment to the Capitol of the State. I mean no reflection upon the Supreme Court of Alabama when I say that it should not be given the jurisdiction in cases like this, but I am here pleading for the rights of the people of the counties to have control over the officers that they elect and to whom their duty is.

MR. OATES — Is not the Supreme Court overloaded with business now?

MR. SAMFORD—I thank the gentleman from Montgomery for the suggestion that the Supreme Court of this State is constantly complaining that they are much crowded with work and we need not be hunting to give them any more. Now, Mr. President, I do not desire to detain this convention further along this line. I simply am here raising my voice and expressing myself in my feeble way in behalf of local self-government, in behalf of the people of the counties of this State controlling their own affairs, and against the tendency towards the centralization of power at the Capital of the State. They talked to me on yesterday about county autonomy, I tell you we cannot too jealously guard the county autonomy and the right of self government and the right to enforce the laws of the different sub-divisions of the State, and I desire, for one, to go on record here and now as being unalterably opposed to the proposition as laid down in the report of the Committee.

MR. ESPY—This provision sought to be stricken out by the amendment is evidently inserted for the purpose of preventing lynching, and, Mr. President, if there is one evil from which our State is suffering more than another, it is the deplorable condition of affairs with reference to lynching. If there is a crime for which there can be absolutely no excuse it is that of taking the life of a prisoner when he is in the hands of an officer. It is a further fact, Mr. President, that cannot be successfully controverted, that the negligence or the cowardice of Sheriffs in this State contributes largely to the loss of life by mobs. So long as the Sheriff can with impunity turn over his prisoner to a mob and let them take him and do as they will with him and only be answerable to the people of his county where the crime is committed, just so long lynch-law will prevail in the State of Alabama. But whenever it is ascertained by the people that elected the Sheriff that if they go and deprive the officer of his prisoner, that not only the prisoner will lose his life, but that the officer will lose his office, then a public sentiment will be created, if not against lynching, at least to protect their officer in holding his office. The only objection I have to this section, Mr. President, is that it does not go far enough. If it would go further and say that the Sheriff should be put out of office, and if that law were

in force, it would not be twelve months before lynching in the State of Alabama would be unheard of.

MR. SAMFORD—Are all the lynchings in Alabama caused by the negligence or cowardice of the sheriffs?

MR. ESPY—No, sir.

MR. SAMFORD—Why then would the turning out of all Sheriffs in Alabama stop lynching in Alabama?

MR. ESPY—It might not absolutely stop it, but it would certainly reduce it to a very great extent—it would certainly do that. Lynchings are the result, if I may be pardoned for using the expression, of depraved sentiment, and wherever the good people of a county cease to connive and cease to render indirectly protection to the mob that does the lynching, then the victory is very nearly won in the fight of saving the life of prisoners. It is like everything else, whenever the moral sentiment of a community where it is done condemns it, then the thing practically ceases. What good would it do to undertake to impeach a Sheriff in the county where the lynching is done, and as a rule, Mr. President, so far as this section would apply, the man must be tried right in the community where the lynching takes place, unless this provision or some other provision be enacted so as to get beyond the local influence, and I know of no better tribunal before which the Sheriff may be brought for trial. Now, there is nothing in this provision here that is harsh or unjust. It don't say you can without cause suspend the Sheriff, or that you can impeach a Sheriff, but he must be guilty either of neglect, or connivance, or other grave fault. In other words, when you group the words altogether they mean no more or no less than if the Sheriff or deputy fails to discharge his duty he lays himself liable to impeachment. What good reason can be assigned why the Supreme Court of Alabama shall not be the tribunal before which he should be arraigned. They are certainly competent. The history of the past has shown that it is a matter of impossibility to convict a sheriff in his own county. Why? Because of the influence he has over his constituents, and unless, as I said, this provision is adopted, lynching will continue to prevail in Alabama, and I hope, Mr. President, that the amendment will not prevail.

MR. FITTS — Upon this subject, the distinguished gentleman from Pike (Mr. Samford) in the Committee, as he has stated, gave his brethren of the Committee warning and notice that he would raise this question upon the floor of the Convention. I desire to assure the Convention that this matter was the subject of most careful consideration in the Committee room, and your Committee believes that this provision as embodied here is a step in the right direction; they believe that it is a step towards the civilization that is demanded in this country; towards a condition

of affairs that ought to be brought about especially at the time of the holding of this Convention especially in this Convention, especially in this body which has met for a paramount issue, for the purpose of lifting a burden of apprehension from the people of Alabama, and especially from the people of a particular section of Alabama. It is meet and proper at the same time that the same clarion voice proclaim that relief, that the same Constitution that is going to bring about the fabric under which the new conditions can prevail, it will be meet and proper that at the same time, when you say to the black man "we propose to set limitations about your rights to participate in the affairs political of this country or to vote when you are ignorant and unfit to exercise the right of suffrage," it will be but meet and proper and common justice to say with the same august instrument that we propose to protect your life from the hands of mob violence, and we propose to see that you will be brought into the court houses of this country and given fair and impartial trials, and that you are not taken by mobs out of the hands of sheriffs of this country and hung up to the nearest tree or the nearest telegraph pole. We say that these two things go hand in hand, and that they should be written down in this Constitution side by side. It does not answer this proposition at all to say that sheriffs are elected by the people, and that they ought not to have this additional terror to make them doubly anxious to see that their prisoners are protected and that the law is enforced. It is a fact that they are taken—that prisoners are taken from sheriffs by mobs, and it is a fact that it ought to be stopped. The Committee thinks that this is a safe and conservative measure when it says that the right of removal shall be had until the Supreme Court can pass upon the merits of the case, and it does not take the office of any Sheriff away from him unless he is found to be guilty of cowardice or connivance in these lynchings—

MR. SAMFORD—Or other grave fault or neglect.

MR. FITTS — Neglect of his official duty, cowardice that would not withstand the mob, connivance that permits them to take away, giving them the keys when he was pretending not to give them. We all know the habits, the ways of mobs. It is no answer to this proposition to say that the Supreme Court is crowded and ought not to be asked to stop and hear these impeachment proceedings. It don't make any difference how crowded it is, in that important matter it ought to and certainly will rise to the new duty that is imposed upon it and make rules and regulations to hear the impeachment proceedings when they came up. The gentleman says that he is opposed to this proposition, he says that he is opposed to it because sheriffs are only a part of the executive in the sense where the arm of the executive extends into the county, he is opposed to it because the Sheriff is elected by the county and ought not to be removed by the Supreme Court.

I say there cannot be any reasonable complaint by any good and faithful Sheriff at a mere temporary removal until the Supreme Court can hear his defense of all his actions and official conduct. I say it will be a long step and a considerable stride towards the stopping of lynchings in this country and in this State, and that is a stride greatly to be desired, and almost any price is not too dear that does not invade the sacred rights of man. The distinguished gentleman (Samford) should remember the eloquent words, almost the last words that ever came into this hall from eloquent lips that are still—from his great father—among the last words that he ever sent into the General Assembly. The very concluding words of one of the last messages that ever fell from the eloquent pen of that beloved man, was a prayer to the General Assembly of this State to do something along this very line. And now that the Constitutional Convention proposes to rise to that high duty I say that this is a fit time and a fit place, in the very instrument itself, that is to set proper metes and bounds around this people, to give them every guarantee that no matter if your political rights are limited, your court rights and your right to be protected while under arrest and being brought to a trial, and protected in the courts, shall remain inviolate, and that any Sheriff who allows these to be disturbed will be punished. I think that this Section as written by the Committee and as reported by the Committee should pass and go into the Constitution.

MR. BURNS—Do you know of any instance in the State of Alabama where any sheriff has connived at lynching?

MR. FITTS—I have not been mixed up in any mobs and don't propose to be.

MR. BURNS—But do you know of any instance?

MR. FITTS—I don't know the details of any mobs.

MR. BURNS—I deny that any lynching ever took place.

MR. FITTS—Your denials are very broad.

MR. deGRAFFENREID—We rave already passed upon the question as to whether or not the Governor of Alabama shall be charged in this constitution with seeing that the laws of this State are faithfully executed, and we have already by an article which has been passed upon by this convention declared that it shall be the duty of the Governor to see that the laws of the State are executed. The Governor is an Executive officer. Each sheriff is an arm of the Governor and it is only through the sheriff that the Governor can see that the laws are faithfully executed in each county because the sheriff represents the Executive in the county where he is elected and where he perform his duties. As we have charged the Governor in the Constitution with seeing that the laws are faithfully execut-

ed, it would seem that it would be proper also in the very same Constitution to have a provision whereby he may have some authority to act, and whereby he can require his Executive officer in each county to perform his duty and to faithfully execute the law. It is a matter of history that in one of the recent administrations in this State, a Governor called upon a sheriff in a county that adjoins the county of Montgomery demanding that he see to it that a prisoner was presented, and the Governor received a reply informing him that so far as the Governor was concerned he was helpless. While the Constitution requires the Governor to see that the laws are faithfully executed he was politely informed by the sheriff that he had no power. I believe the sheriff replied to him "you cannot enforce it, it is none of your business." There is a section providing for the impeachment of the probate judge. He is a county officer elected by the people of his county. The probate judge is answerable only to the people of his county and yet under a constitutional provision which has been the fundamental law of the State at least since 1875 every probate judge has been liable to impeachment at the hands, not of the people of the county who elected him, but of the Supreme Court of the State of Alabama.

MR. SAMFORD—Because he is a part of the judiciary system.

MR. deGRAFFENREID—And the Sheriff is part of the executive branch and the same reason would apply to one that would apply to the other. The same reason underlies the constitutional provision in the Constitution of 1875 that would underlie the present provision if this should ripen into a constitutional enactment. Why, Mr. President, the people of a county are not the only people who are interested in the acts of the sheriff of that county. They are not the only people who are interested in the proper execution of the laws of the country. It was only recently that the Governor of the State was called upon—I know nothing of the merits of the case—to pass upon the question as to whether in an adjoining county there had been a flagrant violation of law by officers of that county and my recollection is that he came to the rescue of persons who had been convicted by the exercise of executive clemency because they had been improperly convicted by the law officers of the county. We have, as I have said, a constitutional requirement that the Governor of the State should see that the law is faithfully executed. We should not leave it to the legislature, but should fix in the fundamental law a provision by which he will be able to see to it that this constitutional declaration is not an idle set of words, but that it means something. That it means that he shall have the power that can be enforced, not through legislative enactment, but through the fundamental law of the State.

MR. JENKINS—I remember the incident to which the gentleman has alluded. It happened in Lowndes County, did it not?

MR. deGRAFFENREID—Yes, sir.

MR. JENKINS—I remember the reply the Sheriff telegraphed back. The import of the telegram to the Sheriff was that he ought to have placed himself in front of the mob and shot them down to save the life of a man it was impossible for him to save. The Sheriff telegraphed back to the Governor, or made the statement, "I believe in protecting the life, liberty and property of the citizen. I have tried to do my duty. I think the mob has done wrong, but I do not propose to be shot down in the face of a mob to save the life of a man in my care when I know I cannot do it." He used these remarkable words, "I am not fashioned after that heroic mold." You will find there is not today a Sheriff in Alabama, if there is he is a remarkable one, that is fashioned in that heroic mold. It is not human nature. And yet we propose to come here and by constitutional law say, it matters not how many bayonets or guns stare you in the face, you must walk out there and draw your pistol and say the first man who advances is a dead man' and then be shot down in your tracks." I tell you all, there are some crimes so black, and heinous, that have been committed in this country of men, of which I am a representative on this floor, that there is no man who could stem the tide of indignation of wrath that has been aroused in the hearts of the people.

MR. FITTS—May I inquire, would this section touch those conditions? Would that be cowardice or connivance?

MR. JENKINS—But you leave it to the Governor to say what it is, and upon his opinion that sheriff is deprived of office and not given the presumption of innocence and what everyone, even the lowest in the land, is entitled to, a trial by jury.

MR. PILLANS—Except the victim that is taken from the Sheriff?

MR. JENKINS—There is no man in this Convention more opposed to mob law than I am, but I lay down this as a deliberate proposition, that there is no law or constitutional enactment that this convention or any legislature can pass that will do away with it under the present conditions. There is but one way and only one, and that is, you must educate and reform the moral sense and sentiment of the people. Until that comes about, your laws are as empty as the paper upon which they are written. You must build up a public sentiment in the minds of our people that every man is entitled to trial, and when he goes to trial he must receive justice and not be allowed to escape the gallows by the technicalities of the law and the fine web of sophistry the lawyers weave around their clients. That is the proposition for

this Constitutional Convention. We should reform our judicial system and let the people know that when a man has committed a heinous crime he shall be walked up to the bar and tried before a jury, and be sentenced to the death to which he is entitled if he is guilty. Do that, and I maintain mob rule and mob violence will not stalk like a threatening spectre throughout this country, as it were, like some great black cloud hovering over this Republic. I am afraid of it, and dread it, but it is here and you cannot remove that by any constitutional enactment or act of the legislature. You must get down to the meat of the proposition, to the people themselves, and reform the sentiment of the people. I maintain that the present Constitution has all the requirements that we can provide. The Governor, the Secretary of State, the Auditor, the Treasurer, the Attorney General and the various other officers may be removed from office for willful neglect of duty, corruption, etc. If any officer of the law allow a criminal to escape from him by willful neglect of duty or cowardice, you can have an indictment.

The third section of the Article on impeachment says, "The Sheriff, Clerks of the Circuit, City or Criminal Courts, etc., and all other county officers may be removed from office for any of the causes specified in Section 1 of this Article by the Circuit, City or Criminal Court of the County, provided that the right of trial by jury and appeal in such cases be secured." Now you do not propose to give him this right until you remove him from office and debar him of the presumption of innocence to which he is entitled.

I have been forced in the adoption of this report to vote against many of the sections offered and I want to say in justice to myself that I was present at one meeting of the Committee and that was when the section as to Lieutenant Governor was being considered. I had other Committee meetings at the same time and was not able to get to this Committee and have voted conscientiously on every question.

MR. SOLLIE—I am in the unfortunate attitude of having again to oppose a section of a report brought in by the Committee on the Executive Department. I approve in this instance of the spirit of the thing attempted—the object in view. I approve of the sentiment underlying the effort made. The whole of the moral bearing of the argument coincides with my judgment but when it comes to the measures employed, the manner and methods of curing the evil, in my judgment they are not the best that could have been resorted to. So far from that I consider that the evil that will be created by this contemplated act will well nigh set off the evils against which it is directed. For that reason, although I so greatly desire to see mob violence in Alabama come to an end, so greatly desire to see the day come when almost every newspaper will not contain a report of a lynching of some

person in our State, although I do so much desire this—and it is an earnest desire that goes with me through my life—yet when we come to the reading of this Section of the report of the Committee and see how broad it is, how far-reaching it is, how many of the ordinary rights of the citizen it entrenches upon, I cannot give my assent to it. I believe with the gentleman who has preceded me that it is wrong for us to single out the sheriffs in the counties, sixty-six men in the whole State, and on that small body of men visit a punishment that should be visited upon the whole citizenship of the State of Alabama with respect to the crime of lynching. We bring forward and emphasize the fact that the Sheriff must stand between the prisoner and the mob at any and every cost to himself, notwithstanding he did not start the mob violence, notwithstanding he did not connive at it. The whole vengeance of the law is thrown on him while the Constitution says not a word condemning any other citizens. It does not direct any court to take any step, and does not set out any system. In making a Constitution we should make a system reaching all parties. I submit that the effort here is too much against the Sheriffs. Some constitutional provisions require legislative enactments to put them in force, others need no legislative enactment, but are self-executing. There is at least one feature of this provision that is self-executing and although it is very vague and indefinite, it does not call upon the legislature to do anything with it. That part is this: "And the Governor, when satisfied, after hearing the Sheriff, that he should be impeached, may suspend him from office for such time as he may think proper." "After hearing him," How is he to be heard, what right of hearing is he to have? Is the Governor to hear him by letter or simply by conversation between the Governor and him? Is he to hear him upon affidavit or how is he to hear him? The Section is silent as to all these matters, and I presume they would be left to the discretion of the Governor.

Now, what has the Governor power to do at this point? He has power to suspend the Sheriff, to take away a constitutional right of his, that is, to hold his office until he has been condemned by the judgment of some court and held to be unworthy of it. It not only takes from him the right of trial by jury, but it takes from him the right to be heard by any form of court procedure and puts him at the caprice of the Governor, because Governors, notwithstanding their greatness, may be capricious.

I say such far-reaching provisions as these provisions covering so broad a field, so limitless, left to the discretion of one man, provisions, the penalties for the violation of which are so severe, and the odium growing out of which is so great, should not be made we know as a matter of fact, as the gentleman who has preceded me well said, that in most cases where prisoners are taken from sheriffs the force of the mob is such that if the Sheriff

did his very best to keep the mob from taking the prisoner, they would get him anyhow.

Then "for any neglect of duty," I would construe that to mean for the slightest neglect of duty—it provides that he shall be impeached. And impeachment under these provisions of the Constitution would mean removal from office. "Neglect of duty on the part of the Sheriff connected with the prisoner's being taken from the jail or from the Sheriff or his deputy." It is too broad. It puts upon the Sheriff the necessity to be free from all neglect of duty, to be always wide-awake. Suppose a Sheriff, not expecting a mob, puts a weak deputy in charge of the jail, one who would be strong enough for ordinary occasions, but in view of the fact that a mob may arise, not a proper man for all occasions. The Sheriff puts him there, and every honest and candid mind, though disposed to shield the Sheriff, when called upon to speak under oath, and say whether the Sheriff had neglected his duty, would be compelled to say he had. Here is the law directing his impeachment for that. And it puts him out of office. The provision puts too severe penalties and burdens upon the sheriffs.

I cannot say that I entirely agree with the amendment. It undertakes to leave the matter entirely open. I agree as to the evil of mob violence on prisoners who have gone into the custody of the sheriff. They should be panoplied about and protected by all the force and power of law. I agree that something should be done; but an amendment to this section of the report would be an exceedingly tedious matter to do in open Convention. Therefore if I can get a second to the motion I will move that both the minority report and the Section as report by the Committee be recommitted.

MR. JONES—Would the motion to recommit cut me off

THE PRESIDENT—It would not.

MR. PILLANS—Would not the word "gross" before "neglect" meet your objection?

MR. SOLLIE—It might.

MR. JONES (Montgomery) — The principles which gave birth to this section had as well be met squarely. The transcendant issue they present can not be evaded by objection to details, or appeals for "people's rule." There is a great principle—a vital principle involved. It will not down. It must be met and faced. It concerns all alike. In its enforcement civilization, religion and good government are alike promoted. Without it all languish and wither.

Let us be frank with ourselves. Every time a citizen rises up and appeals for the law, some man says some negro has com-

mitted an unmentionable crime, and, therefore, the sacredness of all law must be cast to the wind.

People in Alabama who have not taken the trouble to keep pace with events, will be startled to be told that in the last ten years over one hundred citizens of Alabama have been taken by mobs from sheriffs and jails and murdered. Yet such is the case. Such is our bloody record. And yet over two-thirds of those people were not guilty of a crime which I will not mention, because of fair listeners in the gallery.

Some years ago down in Butler County, a tax collector was murdered. A mob went to the jail and took two white men and and in flagrant contempt of law and the court hung them up in front of the Court House door that the judge of an Alabama court, when he went to deal out its justice, must be informed by the swinging bodies, how little people recked of law or courts.

We all recognize what I might call "justifiable humanity," when a criminal is caught red handed in the act, with the screams of his victim still vibrating in the air, that wise and good men may be moved to acts of lawless vengeance. But when a prisoner is once in the hands of the law, it should be taught all men that the prisoner, like the ark of the covenant, is sacred, and that the profane hand with touches either, will be palsied.

Why is it of all men on earth, who are entrusted with the keeping of others, that a standard of honor must be made for officers different from all others, and that he should take no risk. Mr. President, the minister of the gospel who would fail to see the veriest stranger, much less one of his congregation, who is stricken with a deadly disease, because of personal fear, would be outlawed and scourged for all time. We are locomotive engineers every day standing by the throttle and risking their lives to save their passengers. We have seen captains of ships standing on the bridge, that the women and children might be saved, and going down to death in the waters. What policeman would be allowed to wear his uniform five minutes if he refused to make an arrest, at the risk of loss of life? What man would have respect for the Alabama State troops, no matter what the odds, if they allowed a mob to take a prisoner from them? Such a standard as is claimed for sheriffs has no recognition in any laws of honor.

It is a false standard of duty; if I may be pardoned for saying it, a cowardly standard of duty.

Now, Mr. President, objection is made to the word "neglect." Neglect about what? A man's life, the dignity of the law, the honor of the State. When a man is guilty of neglect at all, as to such a matter, he should be removed. Mob violence is a thing which grows by what it feeds on. Here and there search-

ing the public records, are cases which all men admit are excusable excuses outside of the forms of law. In some communities this spirit has grown and grown until in some cases the smallest thief is shot down in the jail. Who does not remember some years ago in Pickens County when three or four prisoners, one of them a woman, were shot down in jail though the charge was larceny. From that day to this no officer or grand jury or power of any kind has ever been able to find out who did it, or willing to declare the names of the criminals. We see lynchings almost every week not for the one crime, but for any crime. Some man is suspected of burning a house, and the honor of the State and the peace of the County is invaded. A lawless mob leads the suspect out to death. And so it goes on from bad to worse. In all these cases the guilty go unwhipt of justice.

Let us not deceive ourselves. Two-thirds of the executions of prisoners by mobs are due to one of two things, either the cowardice of the sheriff—and I don't think there have been many cases of cowardice—or to a willingness for the mob to succeed, from the false conviction that a Sheriff in fighting for them is fighting not for the law but for some worthless prisoner. In county after county, everybody but the grand jury knowns who did the deed. Case after case of this sort has happened ever brought to the bar of justice. There is no prosecution. No strong voice even condemns it. We owe it to ourselves, we owe it to our children, we owe it to our God, to put a stop to this base indifference to murder, and making excuse for men who will not risk anything for the preservation of human life and the honor of the State. We have laws enough. Let us put a provision in the Constitution that will execute them. That is what the Committee means. If the gentleman asks me if I am unwilling to trust the people of the County. I tell him frankly yes, because the people of the county never find out who commits these crimes. We don't wish the mob and its friends to murder the law. Nobody knows who is in the mob when the authorities investigate it. Yet it is known to everybody else but the officers of the law and the grand jury.

MR. OATES—Let me ask if a prisoner has not been taken from the Sheriff right in Montgomery, in broad open daylight, and shot to death by a mob and if the Governor did not offer all the reward he could offer and yet nobody was apprehended and no grand jury ever found out who did it?

MR. JONES—I think there are two cases of that sort instead of one though in one case the prisoner was taken from the police. One prisoner was brought in from West Point, and while the military were forming under orders of the Circuit Judge to protect him, by some hocus pocus the mob found out before the judge, when this man would arrive within three miles of the city

and they took him and hung him before the military posses could reach him, and the police made no resistance worthy of the name.

MR. FITTS—They flagged the train at a road crossing.

MR. JONES—Day before yesterday I read of somebody accused of burning a house. A mob formed, a citizen is murdered, and nobody knows or cares who did it. Every week or so, we read of something of that kind.

The gentleman from Wilcox (Mr. Jenkins) makes the argument you must not have a law to punish the Sheriff for failing to defend a prisoner after he is in the possession of the law, because forsooth people may sometimes wish to hang a rapist. Let use build up a sentiment that when a man is in the hands of the law he is sacred, sacred from lawless violence, sacred for justice's sake. Every citizen in Alabama is interested. All of our civilization is based on the idea that "no man can be deprived of life, liberty or property without due process of law." Without its enforcement there can be no civilization—no government worthy of the name.

Public opinion is powerful. It makes war or it makes peace. It protects the helpless when no other power can do it.

Who does not remember the lone prisoner of Fortress Monroe? Bowed in the agony of suffering and defeat, but undaunted still, cruel captors immured him in a cell of a frowning fortress lashed by the seas and ironed him to insult his people and their cause. No eye looked upon him except to mock him, save that of an all-pitying God. His people were disarmed and prostrate in defeat. Not a hand could they lift to aid him. What broke his shackles? The power of public opinion of the civilized world.

At another time, when General DeTrobrian led a file of soldiers into the legislative halls of Louisiana and ejected the representatives of the people, what stayed the hand of oppression, and, with a force greater than that of any mailed hand, barred the door of the legislative halls against the soldier, again for generations to come? It was the power of public opinion in New York and the East, which burst out quick and grander than the storm, speaking in tone millions could read—"thus far, and no further."

We ought to be willing, we ought to be anxious, to have and desire the good opinion of mankind. We are looked upon, and I will not say with how much justice, in many sections, as utterly unmindful of the one great duty of government—the sure and steadfast protection of the weak and the helpless. We are thought to be disbelievers in the sanctity of human life—if that life happens to be that of a negro. We are looked upon as tacitly consenting, if not openly approving the right of any body of men

to mete out death, without trial or evidence, if the suspect can be found, to kill him, not for rape alone, but for any offense against the laws. As Southern men, let us ask ourselves how far appearances justify the belief. Have we stopped mobs at rape? Is not the thirst of mob violence for blood as great in many lesser crimes? And are not our courts open? Is justice administered by our judges or our own juries? How many of these continued outbreaks and assaults upon officers and jails have been punished? We know and the world knows. Does it not behoove us to pause and consider? To devise some remedy? To strike some blow for the sanctity of human life and the honor of our State?

These mob executions are brutalizing our children, blunting our religion, and undermining our civilization. Can any one in the sound of my voice, rise up and say that this is not so? We are undermining all noble ideals of duty and manhood. When we surrender to any local public opinion, which dominates in some places, that a Sheriff is not bound to take any risks, even to loss of life or limb, in defense of a prisoner, we abdicate all our past and bow down and worship false and base standards of duty. Why should not the Sheriff die at his post as well as the locomotive engineer, or the priest, or the doctor, or the soldier? (Applause).

We are setting a baleful example to our young sons, who are coming up around us, if we teach that when a prisoner is given to an officer, that officer is free to desert his post of duty, because there may be danger in it. It is not like Alabama or the South to tolerate such a doctrine. Let us declare our faith as to this in our fundamental law. (Applause).

I do earnestly trust that this last Article framed by this Executive Department will not be touched in a line, but that it will go out from these halls that the law shall be executed, that we despise mob violence, and we intend that human life shall be regarded as sacred, and be taken only by the law. (Applause).

MR. FITTS—I want to make a motion.

THE PRESIDENT—The gentleman from Pike is recognized.

MR. FITTS—Will the gentleman yield, I want to make a motion to continue the session.

MR. SAMFORD—We have fifteen minutes yet. I desire to say so far as I know, every thought of my distinguished friend from Montgomery is of the highest nature, that for him the highest models of honor are selected, that his high-mindedness is not surpassed in the State, but when he says that he is not willing to trust the administration of the laws of this land to the people of the State, he raises a standard to which I am not willing to subscribe.

MR. CUNNINGHAM—He never said that.

MR. SAMFORD—The only difference between the gentleman from Montgomery and myself is the method by which the same end may be obtained. There is a law already for the impeachment of the Sheriff. There is a law already that wherever a Sheriff in this county fails to be at his post, like the captain of a great ocean steamer, or the locomotive engineer with his hand on the throttle, as he goes down to death and destruction, that he shall be impeached and removed from office.

Gentlemen on the other side of the controversy contend that the Supreme Court is the place where they ought to be tried, and away from the people who elected them, and away from the jurisdiction before whom they had a right to be heard, at the Capital of the State. Where would this thing lead? I understand men have been shot down on the streets of Montgomery, shot in the back, and no indictments have ever been returned by the grand jury of Montgomery County.

MR. JONES—I do not understand that such is the case; but if that be so we should have some tribunal who would indict and if there are none in the county we should seek them elsewhere.

MR. SAMFORD—Is that an argument that the Supreme Court ought to have jurisdiction in this county and not the people of Montgomery in the enforcement and punishment of crime? Can you say that the people of Montgomery are not capable of administering the criminal laws of this State and therefore the administering of them ought to be put in the hands of the Supreme Court of Alabama? You can see where it leads to. If you start with sheriffs, if you adopt the plan of the gentleman from Montgomery with sheriffs, why not go on and change the venure from different counties and allow the juries in the different counties to try crimes in other counties, and allow the grand jury of one county to return indictments where offenses have been committed in another county.

MR. FOSTER—Are not chancellors and probate judges now impeached before the Supreme Court?

MR. SAMFORD—Yes, but they are part of the judicial system of the State and for that reason probably it was provided that their impeachment should take place before the Supreme Court of the State.

MR. deGRAFFENREID—Are not the sheriffs part of the Executive Department?

MR. SAMFORD—Yes, but the Executive is not asked to impeach him. Whenever you give the Governor power to appoint the sheriff I will subscribe to the doctrine that he may be permitted to remove him, but not until then. But I do subscribe to

the doctrine that the probate judges ought to be impeached by the Supreme Court of the State, with circuit judges and chancellors it is different, they are responsible to no particular subdivision in the State. Circuit and chancery divisions are different from county organizations entirely.

MR. FOSTER—Are not probate judges county officers?

MR. SAMFORD—They are and I was remarking that I do not subscribe to the doctrine that they ought to be impeachable only by the Supreme Court. I am opposed to taking the power to administer the laws of the State out of the hands of the people of the county in which crimes or the offenses have been committed.

MR. HOWELL—Is it it not the law that the Governor can remove the Tax Assessors and Tax Collectors when cause exists for it?

MR. SAMFORD—I think so, but that does not change the proposition that I am stating, that I am opposed to it.

It may be the case that in other States the Supreme Court is the only court of impeachment, but it does not necessarily follow that that is right because it is so.

The only difference of opinion between us in the court before which these matters shall be tried and in order for us to adopt this section we have to say to the citizenship of this State "You are not worthy of trust in the administration of the laws of the land" and whenever you do that then you make a long step in the direction of worse things than we have ever experienced in this State. And when this convention makes such an affront to the people of the State, I fail to see how they can go back and ask them to ratify the constitution that we are now about to adopt. I do not know what the sentiment of the convention is upon it, but it is wrong in principle and I have done my duty, as I conceive it, by my State in raising my voice against it.

MR. O'NEAL—I had not intended to add anything in favor of this provision after the very eloquent remarks of the distinguished gentleman from Montgomery, but I cannot refrain from saying a word in reply to the gentleman from Pike. He says the adoption of this provision will be an affront to the people of Alabama. Does the gentleman believe that the people of Alabama favor lawlessness in this Commonwealth?

MR. SAMFORD—Allow me, Mr. President, to set myself right with the gentleman. The people do not favor lawlessness, nor do I, and I do not favor mob violence. I simply said, and I correct the gentleman now by saying I shall never endorse the doctrine that the people of this State are not capable and worthy to administer the criminal laws of the State.

MR. O'NEAL—I understand the gentleman to say this, but I thought it was not his meaning, but the idea was that there was a large and influential class of office holders who would oppose the ratification of the Constitution if we adopted this provision. If there is a class of office holders in this State who are opposed to the enforcement of law and order in this Commonwealth I would let them understand now and forever that we propose in this convention to see to it that every man who is in the custody of the law, every helpless prisoner, is protected, and that if the ratification of this constitution cannot be secured except by our pandering such sentiments as that, I would rather see the constitution go down in defeat.

MR. BAREFIELD—In the sixth line of this section it says "And the Governor when satisfied, after hearing the sheriff that he should be impeached, may suspend him from office for such time as he may think proper until the impeachment proceedings are finally disposed of." The Governor then could order the sheriff suspended.

MR. O'NEAL—Yes.

MR. BAREFIELD—Until the Supreme Court passes on the cases and they could hold the matter up for the full term of the sheriff's office, four or six years, no matter how innocent the sheriff may be.

MR. O'NEAL—This section simply provides, that any sheriff who, by reason of cowardice, connivance, neglect, or other grace fault of the sheriff permits a prisoner to be put to death, when the Governor is satisfied of that fact, can be suspended by the Governor from office. Does any delegate deny that a sheriff who, by reason of cowardice or neglect of duty, permits a prisoner to be put to death ought to be suspended pending trial?

MR. SAMFORD—Who is to pass on that?

MR. O'NEAL—The Governor can pass on it pending trial by the Supreme Court. The Governor who is the Chief Executive officer of the State. The Constitution clothes him with the duty of seeing to it that the laws are faithfully executed. What folly would it be to clothe him with that power and yet say to him you have no control over the inferior executive officers of the commonwealth, the inferior executive officers can permit murder in the jails of the State and yet you be powerless to enforce the law.

THE PRESIDENT—If it is the pleasure of the Convention to dispose of this article this evening, it will be necessary that some motion to suspend the rules be made.

The delegate from Lauderdale yielded for a motion in this regard.

MR. FITTS—I move that the rules be suspended and that the Convention stay in session until the pending section is disposed of.

Leaves of absence were given Mr. Jackson and Mr. Jones for the remainder of the afternoon.

A division being called for on the motion of the delegate from Tuscaloosa.

MR. SAMFORD—I rise to a point of order. There is no quorum voting.

It appears there is a quorum present.

MR. SAMFORD—I give notice, that on the adoption of this section I will make a demand for the yeas and nays and make the point of no quorum.

The motion to continue the session was cleared carried.

MR. O'NEAL—The statement is made by the gentleman from Pike that the sheriffs are not responsible to the Chief Executive of the State in the performance of their duty.

THE PRESIDENT—The Chair will ask the doorkeeper to notify members not to leave as the point of no quorum will be made and the Chair would like to retain a quorum.

MR. O'NEAL—Just a word and I shall conclude. The paramount purpose of this Convention is to remove from our suffrage a certain element in this State, the idle and the unworthy and the purchasable vote. While that is our purpose and it is for the best interest of the State and for the good of all its citizens that we undertake to purify and reform our suffrage by removing this element from our electorate, let us say to those whom we deprive of the elective franchise by this Constitution, we will do it and we do it because it is for the interest of the people of the State and of good government and for the purity of the ballot, but we intend to see to it that the strong arm of the law will protect you in all your rights of person and property in this commonwealth. We will extend and accord to you that justice which the strong always owe to the weak. That is the purpose of this section, and that purpose should commend itself to every delegate within the sound of my voice.

I cannot endorse the sentiment of the gentleman from Wilcox when he says it is the duty of the sheriff to risk his life to protect his prisoner. It is his duty to risk and even to sacrifice his life if necessary, to protect the prisoner against mob violence because mob violence is anarchy and mob violence in this Commonwealth. I apologize to the Convention for these remarks at this late hour and I move the previous question upon the amendment.

MR. JENKINS—I did not say it was not the duty of the Sheriff but I said there was not a Sheriff in Alabama who would risk his life when there was no chance of it doing any good.

MR. O'NEAL—I withdraw the motion for the previous question and move to lay the amendment on the table.

A vote being taken the amendment was tabled.

MR. BOONE—I offer an amendment which has been accepted by the Committee and the Chairman of the Committee.

The amendment was read as follows: "Amend Section 30 in line seven after the word 'impeach' by adding 'may suspend him from office until the impeachment proceedings are decided'."

The amendment was carried.

The amendment offered by Mr. Murphree was read as follows:

"Amend Section 30 by inserting in the second line after the word 'and' 'he and his deputies shall be ineligible to such for four years after the term of the Sheriff expires.' "

A vote being taken on a motion to table this amendment made by Mr. deGraffenreid, the same was tabled.

MR. BLACKWELL—I offer an amendment.

Amend report of the Committee on Executive Department by adding to the 30th section: "If the Sheriff shall be impeached, he shall not be eligible to hold any other office in this State during the time for which he was elected as Sheriff."

MR. JONES (Montgomery)—That is the law already.

MR. BLACKWELL—No, it is provided that if he is impeached during the balance of the term for which he is elected he cannot hold "any other office." Without this amendment if there were sympathy in the community for the Sheriff after he had been impeached and another office even a better one should be open, by an election they might as a reward to him if they were in sympathy with him give a better office than the one he had lost.

MR. deGRAFFENREID—I move the adoption of the amendment.

MR. BAREFIELD—I move to lay the amendment on the table.

A vote being taken on a division—

MR. SAMFORD—I make the point of order that there is no quorum.

THE PRESIDENT—The Chair will proceed to count a quorum.

MR. JENKINS—I move that we adjourn.

MR. deGRAFFENREID—I had moved the adoption of the amendment.

A vote being taken the amendment was adopted.

MR. JENKINS—I move to adjourn.

THE PRESIDENT—The motion is out of order.

MR. JENKINS—I rise to a point of order, that a motion to adjourn is always in order.

THE PRESIDENT—The Convention has established the rule that this Convention shall remain in session until the pending matter is disposed of.

MR. JENKINS—Does the Chair rule that a motion to adjourn is not in order?

THE PRESIDENT—Not while this question is before the House.

MR. OATES—A motion to adjourn is always in order, but the gentleman has to be recognized by the presiding officer before he can make it.

MR. BURNS—I have an amendment.

The amendment was read as follows: Amend Section 30 by striking out all after the word "successor" in the third line.

On motion of Mr. deGraffenreid this amendment was tabled.

MR. deGRAFFENREID—I have an amendment in the hands of the Secretary.

Amend Section 30 by striking therefrom the words "such office as his own successor" in the third line and insert in lieu thereof "election or appointment to any office in this State for one year after the expiration of his term."

MR. deGRAFFENREID—The effect of that amendment is to place the Sheriff so far as re-election or election to any other office is concerned, upon the same footing that the Governor now occupies.

Dissent was audibly manifested.

MR. deGRAFFENREID—Allow me to explain and then you can vote upon it.

It is already the law that the Sheriff cannot succeed himself, but we know that under the practical operation of that law the Sheriff is always a candidate for re-election, not in his own name, but in the name of his chief deputy, and the Sheriff, if he succeeds in electing that deputy, still administers the office. There are now in the State of Alabama many men who either directly or indirectly through the election of their deputies have held office of Sheriff three or four terms, when it has been the purpose of the law-makers, as I have said, to remove from the Sheriff any temptation to exercise the duties of his office for political purposes to secure his own election.

By adopting this amendment you carry into effect the purposes of the law-makers when they declared that the Sheriff shall not be his own successor.

The Sheriff as we all know is the chief executive of the county, a man of great power. Under the common law, in England, the sheriff was Earl, the proudest of the nobility next to the Duke, ranking all other orders. He was the principal figure of his county, and upon him was cast the burden of the administration of the law. As the sheriff is, in his county, what the Governor is in the State, the chief executive officer, it seems to me that both should be placed on the same footing. They belong to the same department of the State and the duties of both are to see to the due execution of the law.

MR. CUNNINGHAM—I move the previous question on the Section and all pending amendments.

MR. JENKINS—I rise to a point of order and I call the attention of the Chair to Rule 26, that a motion to adjourn is always in order.

MR. WILLET—I rise to a point of order that the rules were suspended.

THE PRESIDENT—It was submitted to the House and the order of the House was that the Convention should continue in session until the pending Section was disposed of. If the Chair was in error in overruling the point of order on that ground, the ruling of the Chair was nevertheless proper upon the other ground stated by the gentleman from Montgomery, that the Chair had not recognized the gentleman from Wilcox and the gentleman had not the floor to make the motion to adjourn, so that whether the Chair stated correctly the reason, the result was correct.

A vote being taken the main question was ordered and a further vote being taken on the amendment, the result on a division was 43 ayes and 26 noes.

MR. SAMFORD—I rise to a point of order. There is no quorum, and I demand a call of the house.

MR. WILSON—I call attention to the fact that if there is no quorum this amendment is not adopted. I am opposed to the amendment cutting off the sheriffs succeeding to any other office and I make the point of order that there is no quorum voting. You have no right to bring people in and vote them.

MR. OATES—The delegate may be right in opposing the amendment, but he is mistaken in one thing. The call of the House brings absent members in but it cannot vote them. The vote has to be taken over again.

MR. BURNS—I rise to a point of order. An hour was set for the Convention to adjourn and how many amendments have gone out since that was done?

THE PRESIDENT—I overrule the point of order.

MR. O'NEILL (Jefferson)—I make the point of order that there was no quorum present when the previous question was ordered, and I now have a right to offer an amendment.

THE PRESIDENT—The point of order is overruled.

MR. CUNNINGHAM—Rule 33 says, "Twenty-five delegates shall have power for absent delegates to move a call of the House; but no call of the House shall be made except on the concurrence of a majority of the delegates present. On a point of no quorum being made, the call of the cannot be ordered to this Convention cannot be ordered unless a majority of the delegates present shall vote it." The purpose is to take from one delegate the power to stop the proceedings of the Convention by demanding continued calls of the House.

MR. deGRAFFENREID—I move a call of the House. There are eighty-three members in the House and a roll call will develop it.

THE PRESIDENT—A call of the House is moved. Is it sustained.

The call was sustained.

MR. SAMFORD—I do not desire to interpose dilatory tactics. I am informed there is a quorum present and I will withdraw the call. I did it thinking there was no quorum, and there was not at that time.

MR. WILSON—I renew the point that no quorum voted on the motion on that amendment.

MR. O'NEILL—I make the point the gentleman is too late.

THE PRESIDENT—The Chair thinks the gentleman made his point in time, and in the opinion of the Chair the point is well taken.

MR. WHITE—I submit if a quorum is present, which there is, it don't make any difference whether the quorum votes or not.

MR. JONES—The first business when a quorum appears is to take up business where we left off when the lack of a quorum appeared. Therefore I move that we take up business at that point.

MR. JENKINS—I make the point of order if it appears a quorum was not voting a motion is lost and the only way they can reach it is to reconsider it.

MR. WILSON (Clarke)—In response to the point made by the gentleman from Jefferson, I insist that the Chair can know and does know that a quorum did not vote because the vote was taken by a rising vote and under the last clause of Rule 33 it is provided "a majority of the Convention shall be a quorum to transact business." So I say that no business is done unless a quorum does vote. I agree with the point of the gentleman from Montgomery. I know it is ruled frequently otherwise, but the better rule seems to me to be if no quorum is voting, nothing is done.

MR. deGRAFFENREID—A good many of the delegates did not vote on either side. There is a quorum present.

THE PRESIDENT—If a quorum didn't vote and that appear upon the face of count it is competent for any gentleman to make the point of no quorum and the Chair sustains the point. Thereupon a call of the House is demanded and it has not yet appeared that there is a quorum.

MR. WILLET—Can you ascertain whether there is a quorum without a call of the house?

THE PRESIDENT—A vote was taken on a division and there was not a quorum voting.

MR. WILLET—Some delegates may not have voted on the division and can you ascertain a quorum or no quorum without a call of the house?

MR. JONES (Montgomery)—Is there a quorum now present?

THE PRESIDENT—The Chair don't know.

MR. JONES (Montgomery)—Can't the Chair count?

THE PRESIDENT—The Chair could.

MR. JONES—I submit if there is no quorum voting when a quorum appears the unfinished business is taken up right where it was left off.

MR. deGRAFFENREID—In order to settle whether there is a quorum I move the adoption of my amendment and on that the previous question was ordered and I demand the yeas and nays.

The roll call resulted as follows:

AYES

Messrs. President,
Ashcraft,
Beddow,
Blackwell,
Boone,
Brooks,
Browne,
Case,
Cofer,
Cunningham,
deGraffenreid,
Espy,
Foster,
Freeman,
Graham, of Talladega,
Handley,
Hodges,
Hood,
Howell,
Jones, of Wilcox,
Kirk,
Kyle,
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Maxwell,
Mulkey,
NeSmith,
Norman,
O'Neal (Lauderdale),
Pillans,
Pitts,
Reynolds (Henry),
Searcy,
Sloan,
Tayloe,
Thompson,
Weakley,
Weatherly,
White,
Whiteside,
Willet,
Williams (Barbour),
Wilson (Wash'gton).

Totals—44.

NOES

Barefield,
Bartlett,
Beavers,
Burns,
Byars,
Cardon,
Carnathon,
Chapman,
Davis, of DeKalb,
Eyster,
Ferguson,
Fitts,
Graham, of Montgomery,
Grayson,
Henderson,
Jenkins,
Jones, of Montgomery,
Knight,
Leigh,
Locklin,
Martin,
Murphree,
Oates,
O'Neill (Jefferson),
Pearce,
Pettus,
Phillips,
Porter,
Robinson,
Rogers (Sumter),
Samford,
Sanders,
Sanford,
Smith, Morgan M.,
Sollie,
Spears,
Walker,
Williams (Marengo),
Wilson (Clarke),

Totals—39.

During roll call:

Mr. Eyster did not vote. The President's attention was called and the delegate was requested to vote.

MR. WATTS—I would vote aye, but am paired with Mr. Jones of Hale, who would vote no.

MR. WILSON—I desire to give notice that on Monday I will move to reconsider the vote.

MR. WHITE—I move to reconsider this vote and move to lay that motion on the table.

THE PRESIDENT—The motion to reconsider, under rule, lies over one day.

MR. WHITE—This is a motion to table, not to reconsider.

THE PRESIDENT—The motion to reconsider is not before the House until Monday. But for the rule requiring it to go over until Monday it would be in order.

MR. deGRAFFENREID—I move the adoption of the Section as amended.

MR. JENKINS—Upon that I call for the yeas and nays.

The call was not sustained.

A vote being taken on a division stood 54 yeas, 22 noes.

MR. JENKINS—I rise to a point of order, that the section is lost for the want of a quorum.

THE PRESIDENT—In the opinion of the Chair a quorum failed to vote.

MR. WHITE—I ask a call of the house.

MR. MALONE—I make the point that the Chair just ascertained a quorum and nobody has left.

THE PRESIDENT—A quorum is present, and the Chair cannot understand why they won't vote.

A verification of the vote was had and showed 56 ayes and 22 noes and the section was adopted.

MR. WILSON—I move a reconsideration of the vote by which the section was adopted.

MR. HOWELL—Would it be in order to lay that motion on the table?

THE PRESIDENT—Not until Monday morning.

MR. BROWNE—I have an amendment to the article as reported by the Committee.

MR. PILLANS—Did we not by our resolution resolve to stay in session until we disposed of the section then under consideration, and is it not time for adjournment?

MR. BROWNE—The motion was until the pending measure which would include the whole article.

Mr. Browne's amendment was read.

Amend the report of the Committee on Executive Department by inserting the following Section: Sec. 26. The Governor, Attorney General, Secretary of State, Auditor, and Treasurer, shall constitute a Board of Equalization, the duty of such Board to be to adjust and equalize the valuation of real and personal property for taxation among the several counties of the State and to perform such other duties pertaining to the equalization of taxable values of property among the counties as may be prescribed by law.

MR. BROWNE—I consider that is a very important ordinance and desire that it will be discussed in brief upon Monday when we have all the members present. I now move that we adjourn.

MR. CUNNINGHAM—Will the delegate permit me to introduce a short and spicy resolution to be referred?

The consent was given and the resolution was read as follows:

"Resolved, That after Tuesday next, no per diem will be allowed to the delegates to this convention who are absent, except those who are granted leaves of absence on account of sickness."

The resolution was referred to the Committee on Rules.

MR. SAMFORD—I move that the amendment offered by the delegate from Talladega be laid on the table.

A vote being taken on a division, a quorum did not vote.

THE PRESIDENT—There is a quorum present and I cannot understand why gentlemen will not vote.

A second vote being taken on a division, the amendment was tabled.

The convention, on motion, then adjourned.

TWENTY-EIGHTH DAY

MONTGOMERY, ALA.,

Monday, June 24, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Howell, as follows:

Oh Lord we come to thee this morning with gratitude in our hearts and praise on our lips for the good providence that has preserved our lives and our health and has permitted us to meet to-

gether this morning in this hall to address ourselves to the work in hand. We pray thee, Oh Lord to deeply impress us with the responsibility that rests upon us. It is said in Thy Book "if any man lack wisdom let him ask of God, that giveth to all men liberty and it shall be given him."

We invoke thy divine light and thy divine blessing this day; that we may have clear heads and clean hearts and keep perception of the work before us, that we may come to wise conclusions that will result in the glory and honor of thy name and to the good of the commonwealth. Forgive all our sins and lead us and direct us in the ways of righteousness and peace. Give us the highest appreciation of that which is right and an abhorence for that which is wrong. Bless the homes of these. Thy servants, preserve the lives and health of their loved ones and may all things result for the good of the people and the honor of God. And when our work is done here below, may we so live that the Master will say at last well done good and faithful servant and finally be gathered to the home of Christ, our Lord. Amen.

The roll call showed the presence of ninety-two delegates.

The following leaves of absence were granted:

For Today—Messrs. Hood, Greer (Perry), Duke.

For today and tomorrow—Mr. M. M. Smith, Mr. Lomax, Mr. Studdard.

For Saturday—Mr. Glover.

Indefinite—Mr. Williams (Elmore).

For tomorrow—Mr. Jones (Montgomery).

MR. SAMFORD—On Saturday afternoon Mr. Lomax paired with me on an amendment which I offered to the report of the Committee on the Executive Department. In Sunday's paper the pair was not mentioned. I desire to say that no aye and no vote was taken on that amendment of the Delegate from Marengo. I have a letter from Mr. Lomax stating that he understood I was paired with him on all of these questions and he desired the record to show that he would vote for the substitute offered by the gentleman from Hale if he had been present.

THE PRESIDENT—The Chair is requested to have read a communication from the stenographer with reference to the report of Saturday's proceedings which appeared in the Sunday paper.

The communication was read as follows:

I am requested by the Official Stenographer to make the following statement concerning the report of Saturday's proceedings in The Advertiser of Sunday morning:

Through a mistake in the composing room of The Advertiser, the two roll calls that were had on Saturday were transposed, the effect of which was to make many members appear to have voted exactly contrary to the way they did in fact vote. There were also erroneous arrangements of the speeches of some of the members at the afternoon session, remarks made by one member, being attributed to another. It was apparent to any one reading the report that an error of this description had been committed.

The proprietors of The Advertiser, themselves discovering the error, after the 1,000 copies had been printed and the type distributed, on last evening reset Saturday's proceedings correctly, according to the copy that had been furnished by the stenographer on Saturday and reprinted the 1,000 copies, and, the official report now on the desks of members is correct, I believe, with the exception that on page 3 last half of column four, Mr. Sanford's (Montgomery) speech is attributed to Mr. Samford (Pike).

MR. OATES—I see that I am reported as voting on the amendment of the delegate from Hale on the proposition against the sheriff when in fact I voted against that amendment.

THE PRESIDENT—The Chair will state for information of the gentleman that the official journal shows that he voted against the amendment.

MR. BURNS—In the last column on the third page of the printed report I am put down as denying that any lynchings have taken place. I said I denied that any lynchings had taken place with the connivance of the sheriff.

The report of the Committee on Journal that the Journal for the twenty-seventh day was found correct and on motion was adopted.

MR. WILSON (Washington)—On Saturday I made a motion to reconsider the vote by which Section 30 of the report of the Committee on Executive Department was adopted. I now wish to address the Convention on that motion. In the afternoon session I offered an amendment to the first part of that section which struck out the clause forbidding the Sheriffs from succeeding themselves, later on I voted against the report of the impeachment proposition of the Sheriff. Mr. Chairman, I wish to be understood that it is to neither of these propositions that I shall address myself or make a motion to reconsider this morning, but to the proposition that the Sheriff cannot succeed himself or any body else within a year after the expiration of his term of office. I do not concede that either of the other propositions are correct, but as a majority of this convention have clearly expressed ed their views that both ot the first proposition are correct, I do not care to take up the time of the Convention in the further discussion of either. Mr. President, the amendment offered by the

gentleman from Hale was adopted with barely a quorum present, the Chair had to almost corral the members present to get a quorum to vote, and with this I am told that several members have changed their mind, and in the hurry of the vote and in the hurry to get through, did not give the matter due consideration, and for this reason I will ask the Convention to reconsider the vote by which the amendment was adopted. Now, Mr. President, this amendment says that the Sheriff shall not hold office for 12 months after the expiration of his term. Why is such a provision necessary?

MR. BOONE—Which is equivalent to four years.

MR. WILSON—I thank you for the suggestion. It is in substance that he shall not succeed himself or anybody else or hold any office for four years after the expiration of his term. Why this discrimination against the Sheriff? Are the Sheriffs of Alabama such a hard set of customers that they must be bound hand and foot, gagged and labeled unfit for further public service for four years? It has been argued on this floor that the Sheriff is an executive officer. So he is, and he has always been so. It is said that he is such a powerful and formidable factor in county affairs that it would be unsafe to trust him with the administration of office of Sheriff or that of any other office for four years after the expiration of his term. According to the argument of the chairman of the committee, it has been so for "many, many years," and for that reason—which this convention has adopted as good that the Sheriff should not succed himself, that the present arrangement should not be interfered with.

MR. JONES (Montgomery)—Will the gentleman permit an interruption?

MR. WILSON—Certainly.

MR. JONES—The Committee on Executive Department only made the Sheriff ineligible to succeed himself—did not offer the amendment about which the gentleman is now speaking—personally, I voted against it.

MR. WILSON—I understand that. The purpose of moving to reconsider is to offer an amendment placing the report as brought in by the Committee on Executive Department as it was, but I merely said, if the gentleman's argument would apply in one case it would apply to another and it should be left right where it came from. Now, Mr. President, I have not found the Sheriffs with whom I have associated such horrible, terrible fellows that they were unfit for public trust for more than one term. I can see no reason in branding them any more than any other county officer, and if it be the fact, which I do not concede, and which I state now is not so, that they are the most powerful and influential county officers in the state,—then I would remind the gentle-

men that insist on branding them, that they might as well go a little slow for fear they might encounter a little of this formidable opposition in adoption of the Constitution. I hope the Convention will reconsider this vote and the purpose of asking this is to offer an amendment to place the provision back as reported by the Committee on Executive Department.

MR. deGRAFFENREID—I rise for the purpose of replying to the gentleman who has just preceded me, not so much for the purpose of requesting this Convention not to reconsider this vote, because I think that everything that is done in this Convention should be thoroughly considered and that no ill-advised action in any matter should be had.

MR. WATTS—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. WATTS—If I understand the motion of the gentleman from Washington, it is to reconsider the vote by which a certain amendment was passed. Since then the section was passed. Can he reconsider the amendment without first reconsidering the vote by which the section was adopted.

MR. deGRAFFENREID—No sir.

MR. WATTS—He said the section had been passed and he desired reconsideration of the amendment rather than the vote by which the section was passed.

THE PRESIDENT—The Chair understood the motion to reconsider the whole section. The Chair understood that the gentleman explained that his object in reconsidering the vote by which the section was adopted was for the purpose of offering an amendment which would reinstate the section as originally reported by the committee.

MR. deGRAFFENREID—As I was going on to say, I do not think that any ill advised action should be had by this convention in any matter. We are adopting a Constitution which will curb the powers of the Legislative Department, and for that reason we should be careful, but I desire to say to this convention that we are not here now for the purpose of legislating in the interest of office holders, we are here to legislate in the interest of all of the people of the State of Alabama. Gentlemen seem to misconceive the purpose for which offices were created. They were not created by the people for the purpose of placing money in the pockets of the individual, they were not created for the purpose of elevating one individual above another, but they were created for the benefit of the people themselves.

MR. MORRISETTE—Will the gentleman allow me to ask him a question?

MR. deGRAFFENREID—Yes sir.

MR. MORRISETTE—Were they created for the purpose of placing one gentleman below another?

MR. deGRAFFENREID—No sir, and I will reply to that. Whenever you have it understood that any office is so limited, that the powers which are conferred upon the office holder cannot be prostituted to his own ends, but that they must be used in the interest of the people, you dignify that office. Whenever you place an office beyond the ambition of the mere office seeker you dignify that office, and you make the incumbent of that office a better office holder. Now, Mr. President, I want to trace the history of this provision in the fundamental law of the State. In 1819 when our ancestors met to adopt a constitution for the State, there was one office at which they struck, and that office was the office of the sheriff of the counties in the State. They said in that constitution that no sheriff should be qualified to succeed himself, either as sheriff or as deputy for three years after the expiration of his term. In 1861 when the people again met in Convention for the purpose of changing their fundamental laws, they provided that the sheriff should not be his own successor, and that he should not even have the privilege of holding a deputy's office. In 1875 when they met again for the same purpose, they placed the provision in the constitution that he should not be his own successor, and for what reason? Will the gentleman from Washington tell me why?

MR. WILSON—Yes sir.

MR. deGRAFFENREID—Why?

MR. WILSON—I was not living at that time, but I have been told by people because the sheriffs handled the administration of estates in Alabama, but there is no reason now, the cause being removed the prohibition ought to be removed.

MR. deGRAFFENREID — The convention knows, it is a matter of history, that it was adopted for the purpose of taking from the sheriff the temptation that might exist to use the authority that was vested in him by the people for his own political advancement. Well gentlemen if that was the purpose, and we all know that it was the purpose of the people, that purpose cannot be carried into effect as long as you leave it in the power of the sheriff to be a candidate, not for his own office, but for any office in the gift of the people in his county. Isn't the purpose of the constitution makers in 1875 nullified if the sheriff is permitted to use his office, not for the purpose of securing his election to the office of sheriff, but for the purpose of succeeding the tax collector or succeeding the tax assessor, of succeeding the probate judge, of succeeding any officer in the gift of the people?

MR. PRESIDENT—I believe I am member of the Committee on "Harmonics" as the distinguished gentleman from Montgomery (Ex-Governor Jones) has seen fit to call us, and it seems to me that when we get through with this instrument we should have one that harmonizes in every particular. I know that Sheriffs, as a rule, have been men of good character, and men of first-class ability, that the office has been well administered, but the same is true with reference to his chief, the Governor of the State of Alabama. You have by your action in this Convention said that the Governor of Alabama, at the expiration of his term, shall be unfit to hold the office of a Justice of the Peace, or of a Notary Public in the State of Alabama. You dignify him by doing so. Here is his chief in the county. Why should you except the Governor and not except the other executive officers in the State? It has been said on this floor that the English-speaking race is the government-making race of the world. If there is one quality of that race that predominates over every other quality, it is the watchfulness with which the members of that race guard the power of their Chief Executive of the State, or of the Nation. It was that watchfulness which caused that historic meeting so frequently referred to by Fourth of July orators at the Runnymede. It was that same sentiment that ripened into the Declaration and later into the Petition of Right, it was that same principle that led to the adoption of the Declaration of Independence, and later in order that it might be fully understood that the people reserved their power, except where granted to Congress and to the President in the adoption of the Constitution of the United States.

MR. WILLIAMS (Marengo)—The committee in formulating this last section saw fit to discuss the subject very clearly, and very forcibly and at some length, and in formulating it we conceived that we had done that which was for the best interest of the State. Now my friend from Hale (Mr. deGraffenreid) in discussing this subject says that this idea to discuss the subject is looking towards the best interest of the whole State. I beg to say to him that this was the object, and the whole object of the committee when it placed Section 30 where it was placed. Now the argument has been made that it is not to the interest of the people to create office or to have office for the purpose of putting money into pocket of the holder of that office. His argument would appear to go along the lines by which the Governor, the Lieutenant-Governor, the Commissioner of Agriculture and Industries and the other State officers are kept from succeeding themselves in their own office, or running for some other office, or seeking appointment for some particular office during their term and 12 months thereafter. My friend forgets that while the Sheriff is an executive officer, while he is a Constitutional officer, while he is placed among the highest officers of the State, yet as a matter of fact, he is a county officer who has to deal entirely with his people at home. There is the reaching of the whole peo-

ple. There is the reaching of a particular people in a particular county and my experience has been, and I believe that it has been the experience of all members of this convention, that a Sheriff, when he reaches office, reaches and holds it for the interest of the money that is in it. Very few men use the arguments that were used in the tabling of the amendment as offered by striking out this last paragraph of the section. Very few men desire to place themselves as a target to be shot at by a mob, to be belabored by their fellow countrymen or fellow county men unless it be for the money that is in it, and I say now that it is for the money that is in that office that a Sheriff takes it, and not for the high honor that may come to the office of Governor, or Attorney General or Secretary of State. Then if it is for the money that is in the office, I submit to this Convention that the Sheriff would do his duty were he even to succeed himself, in my opinion, and certainly would not neglect that duty in order to seek some inferior office in his county, such as Assessor, or Tax Collector. Now why was the provision left in that he should not succeed himself, because from time immemorial in this State it has been a Constitutional provision, and I submit to this Convention that when all of us—I started to say "permitted" our names to go before the people for the high position of delegate to this Convention, but I will say "placed" our names before the people, we said to them that we proposed to leave the fundamental law just as near as possible where it is. Now, Mr. President, all that the committee asks of this Convention is to leave that fundamental law as near as possible where you find it, make as few changes in it as possible, spare it whenever you can and spare to the people at home this one provision that in my opinion will, if passed as desired to be amended by my friend from Hale, will stir up more strife and row than any other by arraying against this Constitution, when we attempt to pass it, sixty-six of as good and true men as the State of Alabama has in it. I know the sheriffs of the State, and I know that they do their duty. The Committee saw fit to leave this matter where it was, not to strike out as his own successor, not to say for four years because that is practically what the amendment means, that for four years you shall not hold office, that you shall leave the pursuits of your home and come to your county seat where you must live, there labor for your county and incidentally for your pocket, for four years, and at the end of that time be swamped; no other occupation can you seek, but to go back to the mercantile pursuits or farm, or possibly to his law office or doctor's shop. Now leave this matter like it is, don't go touching these old matters, don't give us any more that when we go back to the people and ask them to ratify this Constitution we will encounter opposition, which can easily and properly be avoided. My friend takes up the history of this office and says that in 1819 the Constitution made him ineligible to any office for three years afterward.

MR. deGRAFFENREID—No sir, I did not say that.

MR. WILLIAMS—To succeed himself?

MR. deGRAFFENREID — Yes for three years, either as deputy or as sheriff.

MR. WILLIAMS—Practically as it was in 1785, and in 1861, following the Constitution of 1819 made him ineligible to succeed himself or to be deputy of one who might succeed him, and it appears to me to be a wise provision to leave that as it was in 1861. Touching the history of one of the counties in Southwest Alabama where the sheriff, a good man and good sheriff has succeeded himself practically for the past twelve or fourteen years. Why not leave it as it was in 1861. The Committee would have left it as it was then, we were attempting to leave this matter just as we told the people we would leave it. I dare say there are few members of this Convention, who, when making the race for this Constitutional Convention were not approached in person by the sheriff of his county and asked that question. If my friend wants to make the thing harmonious, so it may be musical, so it may be nice and pleasing let him place the clerk, assessor, collector, all the deputy officers in the same shape, but the object of the Committee was to place the prime offices in the State on a non-succession basis, and to leave the county officers as they are. I submit to this Convention that that is harmony, leaves the State officers in one ciass and the county officers in another class, and we ask you to reconsider this amendment and strike out the amendment as passed in an unwise hour, in an unthoughted heat of last Saturday afternoon's session, when we all wanted to get away, without due consideration and due thought.

MR. BOONE—I move the previous question.

MR. REESE—I ask the gentleman to postpone his motion—

THE PRESIDENT—Will the gentleman withdraw? Does the gentleman decline to withdraw the motion?

MR. BOONE—Yes sir.

THE PRESIDENT—The question is, shall the main question be put.

Upon a vote the main question was ordered.

THE PRESIDENT—The motion is to reconsider the vote by which this convention adopted Section 30.

MR. JONES (Montgomery)—For the purpose of getting at that particular amendment as I understand.

THE PRESIDENT—That was the purpose that the gentleman stated.

MR. HENDERSON—I would like to have the section as amended read.

MR. WHITE—May I inquire whether if we reconsider this, the gentleman is bound by the reasons he gave; that is, that it is simply for the purpose of reconsidering one matter? After we reconsider the section, will it be open for the purpose of reconsidering anything else?

MR. WILSON (Washington)—I would like to state for the benefit of the gentleman that I am willing to be bound by it. I do not want to reconsider anything else.

MR. WHITE—But I want to know what the Chair will hold on that.

THE PRESIDENT—The Chair will hold that if the Convention reconsiders the vote whereby the section was adopted, that it will be open to amendment by the Convention.

MR. WHITE—All of it.

MR. JONES (Montgomery) — I submit while the Chair is eminently correct in that ruling, that we can have an understanding when we vote for the reconsideration that it is for that purpose. Of course if gentlemen are going to amend, a great many of us who favor reconsideration would vote no.

MR. WHITE—I submit that would have to be by general consent, because any member could move to reconsider any other proposition that had been adopted into that section.

MR. SAMFORD—I do not know but that having offered an amendment, I might be considered as desiring to reconsideration. I simply desire to say to this Convention that I have no intention of going further myself, but I do not speak for anybody else in the Convention.

MR. REESE—I make the point of order that the previous question has been ordered, and that debate is out of order.

MR. WHITE—This is no debate, as I understand it, Mr. President, but simply a parliamentary inquiry.

THE PRESIDENT—Yes, the chair indicated to the gentleman from Jefferson the opinion of chair, and quite a number of members who proposed amendments on Saturday have indicated they have no desire to renew those amendments this morning, but are willing to confine the consideration of the question to the amendment offered by the gentleman from Hale, Mr. deGraffenreid.

MR. WHITE—Well that will not bind other members who want to go into old matters.

THE PRESIDENT—That is true.

MR. WILSON (Washington) — But all the members that have proposed amendments have bound themselves not to raise the questions again. The gentleman from Pike and myself are the only members that I remember who proposed amendments. It seems to me this question should be thoroughly understood that we propose to go into nothing except the amendment offered by the gentleman from Hale.

MR. BOONE—Now, Mr. President, I call for the question.

MR. ROGERS (Sumter)—I rise for the purpose of introducing a resolution, and ask unanimous consent that it be read now, so that the Convention may pass upon it. It relates to this very question.

Objection was made.

MR. WHITE—I move now to table the motion to reconsider.

MR. SAMFORD—I rise to a point of order. As I understand it the previous question has been ordered. Do I understand that a motion to table can be made after the previous question has been ordered?

THE PRESIDENT—The Chair thinks that the motion to table has precedence of a motion for the previous question, provided it is made before the previous question is ordered. But, under the rules, after the previous question is ordered nothing seems to be in order except the previous question itself. I call the gentleman's attention to rule twenty-six, under which a motion to adjourn, which has the precedence of a motion to table, will not be entertained: "A motion to adjourn shall always be in order, even in the absence of a quorum, except when on the call for the previous question, the main question shall have been ordered." The main question here having been ordered, in the opinion of the Chair a motion to table will not be in order. The question is shall the vote be reconsidered.

MR. SAMFORD—On that I call for the ayes and noes.

The call was sustained.

MR. HENDERSON—I would like to hear the section as amended and passed read.

The section was read.

Upon a call of the roll the vote resulted as follows:

AYES

Messrs. President,	Beavers,	Burns,
Ashcraft,	Boone,	Byars,
Barefield,	Burnett,	Cardon,

Carmichael, of Coffee,
Carnathon,
Chapman,
Davis, of DeKalb,
Davis, of Etowah,
Fitts,
Foshee,
Foster,
Freeman,
Gilmore,
Glover,
Graham, of Montgomery,
Grant,
Grayson,
Haley,
Henderson,
Hinson,
Howell,
Jenkins,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Leigh,
Locklin,
Long, of Butler,
Lowe, of Lawrence,
MacDonald,
McMillan, of Baldwin,
McMillan (Wilcox),
Martin,
Miller (Marengo),
Miller (Wilcox),
Moody,
Morrisette,
Murphree,
Norman,
Norwood,
Parker (Elmore),
Pearce,
Pettus,
Reese,
Robinson,
Rogers (Sumter),
Samford,
Sanders,
Sanford,
Searcy,
Sentell,
Smith, Mac. A.,
Sollie,
Tayloe,
Thompson,
Vaughan,
Waddell,
Walker,
Weatherly,
Williams (Marengo),
Wilson (Clarke),
Wilson (Washington),

TOTAL—69.

NOES

Beddow,
Case,
deGraffenreid,
Espy,
Howze,
Jones, of Bibb,
Kirk,
Kirkland,
Malone,
Mulkey,
NeSmith,
Oates,
Phillips,
Pitts,
Porter,
Reynolds, of Henry,
Sloan,
Spears,
Watts,
Weakley,
White,
Whiteside,
Willet,
Williams (Barbour),

TOTAL—24.

ABSENT OR NOT VOTING

Almon,
Altman,
Banks,
Bartlett,
Bethune,
Blackwell,
Brooks,
Browne,
Bulger,
Carmichael, of Colbert,
Cobb,
Cofer,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Craig,
Cunningham,
Dent,
Duke,
Eley,
Eyster,
Ferguson,
Fletcher,
Graham, of Talladega,
Greer, of Calhoun,
Greer, of Perry,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hodges,
Hood,
Inge,
Jackson,
Jones, of Hale,
King,
Ledbetter,
Lomax,
Long, of Walker,
Lowe, of Jefferson,
Maxwell,
Merrill,

O'Neal (Lauderdale),	Proctor,	Sorrell,
O'Neill, of Jefferson,	Renfro,	Spragins,
Opp,	Reynolds (Chilton),	Stewart,
O'Rear,	Rogers (Lowndes),	Studdard,
Palmer,	Selheimer,	Williams (Elmore),
Parker (Cullman),	Smith (Mobile),	Winn.
Pillans,	Smith, Morgan M.,	

MR. WILSON (Washington)—I now move to lay the amendment offered by the gentleman from Hale on the table.

THE PRESIDENT—The question will be on the motion of the gentleman from Washington to reconsider the vote, whereby the amendment was adopted.

MR. SAMFORD—I understood this vote was on the reconsideration of the whole section.

THE PRESIDENT—The vote just taken was to reconsider the vote whereby the section was adopted. Now the question is to reconsider the vote whereby the amendment was adopted.

MR. WHITE—Which amendment was that, Mr. President?

THE PRESIDENT—The amendment offered by the gentleman from Hale, Mr. deGraffenreid.

MR. WHITE—As I understood the reading of the section as amended, there was an amendment adopted at a later time than the amendment of the delegate from Hale.

THE PRESIDENT—No, the gentleman is mistaken.

MR. WHITE—I am not, from the reading of the section by the secretary.

THE PRESIDENT—It may have been read out of its order.

THE CLERK—They were read out of order.

MR. WHITE—I make the point of order that the Journal shows different.

THE PRESIDENT—The last amendment adopted was the amendment offered by the gentleman from Hale, and the motion now is to reconsider the vote whereby the Convention adopted that amendment.

MR. BOONE—That vote was in favor of a reconsideration of the section.

Now, Mr. President, I move you to strike out from the section the amendment offered by the gentleman from Hale, and on that I move the previous question.

MR. WHITE—I make the point of order that the motion is not in order.

THE PRESIDENT—The Chair would rule that the motion of the gentleman from Mobile is not in order for the reason there is a question pending, and that is the motion of the gentleman from Washington to reconsider the vote whereby the amendment offered by the gentleman from Hale was adopted.

MR. SAMFORD—On that I call for the previous question.

MR. WHITE—I make the point of order that we have to accept the section and amendments and the adoption of those amendments as shown by the Journal, and that we cannot remember contrary to the Journal.

THE PRESIDENT—The gentleman is correct. The Journal will control, unless the Journal is corrected, but it is in the power of the Convention to correct the Journal if they see fit.

MR. deGRAFFENREID—I rise to a point of inquiry.

THE PRESIDENT — But the Journal sustains the recollection of the Chair, that the amendment offered by the gentleman from Hale was the last offered.

MR. deGRAFFENREID—I rise to a question of inquiry to save time. As I understand it the whole section was adopted by the House on Saturday and has now been reconsidered and is before the House. Will not the gentleman from Mobile move as a substitute for the pending question, that so much of the section as injected by virtue of my amendment should be stricken therefrom.

THE PRESIDENT—The Chair is inclined to think, after the convention has adopted this amendment upon a direct vote, that the proper mode of reaching it, instead of making another amendment by striking out, would be to move to reconsider the action whereby the amendment to the section was adopted.

MR. BOONE—I call for the previous question.

Upon a vote the main question was ordered.

MR. WILSON (Washington)—I desire to offer a substitute. At the suggestion of members around me, I move to lay the amendment offered by the gentleman from Hale on the table.

MR. REESE—I make the point of order that the gentleman rose for the purpose of offering a substitute and then made a motion to lay the amendment on the table.

MR. WILSON (Washington) — The substitute had not reached the secretary, and had not been read.

MR. REESE—The gentleman stated that he rose for the purpose of offering a substitute and he should not be recognized at the time that he made the motion to table.

MR. WILSON (Washington)—I had the floor, and it seems to be it is immaterial that I rose to do one thing and did another.

THE PRESIDENT — The Chair is unable to control the mental operations of delegates while on the floor.

The motion to table the amendment was carried upon a viva voce vote.

MR. deGRAFFENREID—I give notice that on tomorrow, after calling the roll, I shall move to take from the table the amendment which has just been laid upon the table.

MR. WILSON—I rise to a point of inquiry. Is not that in effect re-considering more than once?

THE PRESIDENT—The Chair would hold that a motion to take from the table would be in order.

MR. JONES (Montgomery)—I would like to inquire where the original section now stands.

THE PRESIDENT—It is before the house for consideration.

MR. JONES—With the other amendments.

THE PRESIDENT — With the other amendments which were incorporated into it, yes.

MR. JONES (Montgomery) — Now I move the previous question on the section as reported, with the amendments thereto which were adopted.

Upon a vote being taken, the main question was ordered.

MR. deGRAFFENREID—I want to give notice that I voted for the adoption of that section as amended, and on tomorrow morning I will move a reconsideration.

MR. CARMICHAEL (Coffee)—I would like to have the section read with the gentleman's amendment stricken out, as it now stands for passage.

The section was read.

MR. JONES (Montgomery)—I yielded the floor simply to permit that.

THE PRESIDENT—The Chair understands the gentleman from Montgomery has the floor.

MR. JONES (Montgomery) — I move the adoption of the section then as amended.

THE PRESIDENT — The gentleman has the floor for the purpose of closing the debate, if he desires to conclude it.

MR. JONES (Montgomery)—I do not desire to conclude it at all.

Another reading of the section as amended was called for, and the section read. Upon a vote being taken, the section as amended was adopted.

MR. JONES (Montgomery)—I ask permission of the Convention to turn back to Section 12, for the purpose of correcting an erroneous amendment. I will read the section, or just a part of it. The section as printed left out the words—

THE PRESIDENT—The Chair will state to the gentleman that the further consideration of this report is not in order at this time.

MR. JONES (Montgomery)—But I ask unanimous consent Mr. President. It is easier to do it now. We will have to consider what I want to bring up some other time. It is just to correct an error, and one of my own errors at that, and I know the convention will not object to a man correcting his own errors.

MR. WILSON (Clarks)—I have no objection whatever, and do not intend to interpose any, but I think we ought to proceed in order, and I call for the regular order to which we stand committed.

MR. FOSTER—Have we adopted the article as a whole?

THE PRESIDENT—It is not up for consideration at this time, but will come up under the regular order.

MR. JONES (Montgomery)—I appeal to my friend to withdraw his call. It will save trouble—

MR. WILSON (Clarke)—I withdraw the call for the regular order then.

MR. JONES—Well, on reflection I will withdraw my request.

On the call of the standing committees, the Committee on Legislative Department submitted the following report:

A report from the Committee on Legislative Department:

Mr. President:

Whereas, Local Legislative provisions have heretofore belonged to the legislative Department of the Constitution, and

Whereas, one of the standing committees of this Convention was given jurisdiction of Local Legislation, which led to some confusion in the introduction and reference of ordinances upon that subject to each of said Committees, and caused the Committee on Legislative Department to fully consider and draft a section, with numerous sub-divisions, to report to the Convention

for adoption, and whereas, the Committee on Local Legislation has made its report not embracing a number of matters which this Committee maturely considered and desires shall be adopted.

Now, in pursuance to an understanding and agreement with the Chairman of that Committee, your Committee on the Legislative Department instructs me to report and recommend for adoption the following additional restrictions upon the power of the legislature to enact local, special or private laws to come in after the words "public officers" in subdivision 26 of Section 1 of the Article already reported by said Committee, to wit:

27. Exemption of property from taxation or from levy or sale.

28. Exempting any person from jury, road, or other civil duty.

29. Laying out, opening, altering, or making roads or highways.

30. Providing for the management or support of any common or private school, incorporating the same or granting such school any privileges.

31. Granting any land owned by or under control of the State to any person or corporation.

32. Remitting fines, penalties or forfeitures.

33. Providing for the conduct of elections or designating places of voting, or changing the boundaries of wards, precincts, or districts, except on the organization of new counties.

34. Restoring the right to vote to persons convicted of infamous crimes or involving moral turpitude.

35. Refunding money legally paid into the State Treasury.

Your Committee do not concur in Section 5 of said Article as reported by the Committee on Local Legislation, and recommends as a substitute therefor Section 23 of Article IV of the present constitution.

Respectfully submitted,

Wm. C. Oates, Chairman.

Report from Committee on Legislative Department on Local Legislation supplementary, etc., to report of Committee on Local Legislation to be considered in connection therewith.

THE PRESIDENT—The report will lie on the table. Is it the gentleman's desire that the report should be printed?

MR. OATES—Yes, together with the endorsement on the back, to be considered together with the report already made by the Committee on Local Legislation.

THE PRESIDENT—Rule forty-seven provides for the printing of articles reported, but not the reports.

MR. OATES—That is a part of an article already reported. According to agreement, it simply adds additional sub-divisions, which the Committee on Legislative Department propose shall be incorporated into the other.

THE PRESIDENT—The point the Chair wanted to call the gentleman's attention to was that the rule does not require the printing of the report of the committee, but does require the printing of the Article, and it would call for a motion if the gentleman desires the report to be printed.

MR. OATES—I move that the report be printed, with the article. It is very short.

The motion was carried.

THE PRESIDENT—The question now is the special order, the report of the Committee on the Executive Department.

MR. JONES (Montgomery)—In section twelve, Mr. President, by my own fault in the report, in writing it out, the words "except in cases of impeachment" were put after the words "in cases of felony," in the sixth line, when it ought to be just after the word "pardon" in the third line, and I therefore offer this amendment, which I will ask the Secretary to read.

The amendment was read.

Amend Section 12 by adding after the word "pardon" in the third line of the printed ordinance, the following words, to-wit: "except in cases of impeachment." And also by striking out the words "except in cases of impeachment" in the sixth line of the printed ordinance, after the words "in cases of felony."

MR. JONES—I move the adoption of this amendment, Mr. President. I ask the unanimous consent to consider it. I had done so, when I rose before, and withdraw the request. I will state that it is just to correct a clerical misprint, so to speak. It is not in the right place as put in the ordinance, as amended, and the effect of the amendment is to strike it out at the wrong place, and insert it at the right place.

THE PRESIDENT—The question in the mind of the Chair is as to the proper procedure to be taken to reach the difficulty which the gentleman seems to desire to reach.

MR. HOWELL—I will say that it has been the uniform custom in the Legislature of Alabama for thirty years, in cases of this kind, that it be remedied by unanimous consent without reconsidering.

THE PRESIDENT—The Chair is obliged to the gentleman from Cleburne.

MR. HOWELL—That has been the custom for thirty years.

THE PRESIDENT—The gentleman from Montgomery asks unanimous consent that this amendment may be made.

MR. WILSON (Clarke)—I do not understand the chair to rule that an amendment is not in order to the article?

THE PRESIDENT—No, this was an amendment directed to a particular section. It is a motion to amend a section, and by unanimous consent the Chair is of the opinion that it may be done.

MR. JENKINS—I rise to the point of order, that you cannot amend a section after it is adopted, until you reconsider the vote by which the section was adopted.

THE PRESIDENT—Unanimous consent has been granted that this amendment may be made, and the Chair paused to get the advice of delegates upon that point.

MR. JONES—I would like to ask my friend from Wilcox if he has any objection to the amendment.

MR. JENKINS—I have none in the world. I want to get it in, but want to do so in a proper manner.

MR. JONES—There was never a parliamentary body in the world, Congress, the Legislature, or anything that could not change a thing by unanimous consent.

MR. JENKINS—I differ from the gentleman from Montgomery.

Mr. Reese sought recognition.

THE PRESIDENT—The gentleman from Wilcox has the floor. To what purpose does the gentleman from Dallas rise?

MR. REESE—I rise for the purpose of informing the Chair that I have been endeavoring to find out what the amendment is.

THE PRESIDENT—The Chair will request the gentleman from Dallas as to what the pending amendment is.

MR. JONES—In the ordinance as originally reported, the Governor may have had the power to pardon in cases of impeachment as well as any other. In the hurry of debate to remove that error we put the word impeachment after the word felony in the sixth line, and the committee asks the unanimous consent of the House to let it be changed to make the ordinance conform to the wishes of the committee.

THE PRESIDENT — And that consent has already been granted. The Chair submitted the request of the gentleman from Montgomery, and unanimous consent was granted to make the amendment.

MR. JONES (Montgomery)—I move the adoption of the amendment.

Upon a vote being taken, the amendment was adopted unanimously.

MR. PETTUS—I desire to offer an amendment to Section Twelve, and I would like to refer the chair to rule forty-nine, which states upon the final adoption of any article or section of the Constitution, a vote shall be taken by yeas and nays, and spread upon the Journal. Now, I submit, Mr. President, that this article, not having been finally adopted, but under the order of the Convention, having been considered section by section, that an amendment to the article is in order, though the amendment is directed to particular section, because, under the rules of the Convention, the section has not been finally adopted. Under rule forty-nine which provides that on the final adoption of any article or section of the Constitution, the vote shall be taken by the yeas and nays, and spread upon the Journal, I would submit, Mr. President, that under the order, and under the rules of this Convention, that although, by a resolution or motion, passed upon, that was not a final consideration of any section, and that when the question comes up on the adoption of the whole article, the article or any part or section thereof is open to amendment, and I offer the following amendment to section 12—

MR. FITTS—I make the point of order that Section 12 has already been adopted, and enacted by a yea and nay vote, and can only be reached by a motion to reconsider the vote by which Section 12 was adopted, or by unanimous consent. Only in one of two ways can Section 12 be now disturbed.

MR. PETTUS—I make the point of order that Section 12 has not been adopted by a yea and nay vote and the vote has not been spread upon the journal, and I make the further point of order, Mr. President, that when the article is up for consideration, an amendment that goes to any section of the article, goes to the whole article.

MR. BOONE—It seems clear to my mind that the chairman of the Committee asked unanimous consent to amend a matter of placing certain words in the article in the wrong position. That was done by unanimous consent, and there was no necessity for putting it in as a formal amendment, when it was done by unanimous consent, and no other amendment can be made to that section, as suggested by the gentleman from Tuscaloosa without reconsideration, or by equal unanimous consent, as in the case of the motion made by the Chairman of the Committee.

MR. HINSON—As I understand it, the motion was to reconsider this section by unanimous consent; that is, the gentleman from Montgomery was allowed to offer this amendment by unanimous consent, and further consideration of it is now out of order, as I understand, and I therefore make that point of order.

THE PRESIDENT—The Chair is not quite clear upon the point—

MR. PETTUS—I would like for the Chair to look at rule 49.

THE PRESIDENT — Yes, the Chair is familiar with that rule; that relates to the adoption of the whole article, but it seems to the Chair that an amendment to a particular section which has already been adopted by this Convention would not be in order, without a reconsideration of the vote by which the section was adopted; but after the whole article is adopted, section by section, that whole article may be amended by adding additional sections, if the Convention should see fit. That relates to matters that have not been considered by the Convention, but it does not seem to the Chair, except by unanimous consent, that delegates can go back and propose amendments to particular sections. Otherwise we will have accomplished very little in taking it up section by section. While the Chair is not altogether clear upon the point, the Chair will sustain the point of order against the amendment. The gentleman may offer an additional section if it be germane to the article.

MR. JONES (Montgomery)—Just to expedite matters, I have a resolution referring to this, if the Clerk will read it.

The resolution was read as follows:

Resolved, That in engrossing the ordinance on Executive Department, the Secretary be instructed to change the numbers of the sections in the ordinance to conform to the action of the Convention.

MR. JONES — I move a suspension of the rules, that the resolution may be upon its passage.

It will save time, as the ordinance was originally reported with a numbering which will be wrong now, and I am afraid some of my parliamentary friends might object if the Secretary corrected the numbers of his own motion.

Upon a vote being taken the rules were suspended, and upon a further vote the resolution was adopted.

MR. FITTS—I desire to offer an amendment in the shape of an additional section.

The amendment was read as follows: Amend the report of the Committee by adding to Article 5 a section to read as follows:

"If the session of the General Assembly next after the ratification of this Constitution shall enact a law increasing the salary of the Governor, such increase shall become effective and go into operation immediately upon the passage of such act.

MR. SAMFORD—That is not from the Committee.

MR. FITTS—I offer the amendment. I simply in a word desire to make plain the object of this section as offered. The Convention declined in the section reported by the Committee to increase the salary of the Governor in the Constitution, but the Convention in its wisdom saw fit to pass a recommendation for the Legislature that the salary of the Governor should be increased by the General Assembly. Unless this additional section is added it leaves the matter where gross injustice and hardship is likely to be done and will in all probability be done.

You have also seen fit to provide that the Governor shall come into office at practically the same time the General Assembly meets, the 15th of November. You therefore give your General Assembly no chance or opportunity to increase the salary so that it would apply to the next Governor and the effect of that is to put it off for four years and first be given to some man who is elected in the far future, and upon a mere technicality the next ingoing Governor will be deprived of any benefit of that increase. If it is proper, if the General Assembly sees fit to make this increase of salary, it is proper for the next Governor to have an opportunity to enjoy it as much as it is for some far-off elected Governor.

MR. OATES—Why do you not frame the amendment so as to say if the salary is increased the increase shall also be given to the Governor first elected after the ratification of this Constitution?

MR. FITTS—I will accept that.

Mr. Browne here took the chair.

The section as offered by the delegate from Tuscaloosa was altered so as to read "And shall apply to the first Governor elected after the ratification of this Constitution."

MR. JENKINS—Is there anything in the Constitution that gives the Governor a salary?

MR. FITTS—There is not, but he gets a salary of $3,000 a year from the State.

MR. JENKINS—Is there anything in the Constitution that gives him the raise in salary?

MR. FITTS—No, sir; but there is something in there that prevents his salary being increased or diminished during the term for which he was elected.

MR. JENKINS—If there is nothing in the Constitution permitting or providing for his salary or the increase of it, why should anything go in here as to any legislative enactment concerning it?

MR. FITTS—Because you have passed a resolution recommending the General Assembly to increase his salary, and you know, and every other delegate knows, that the beginning of the term of the Governor and the beginning of the session of the General Assembly fall so close that even if that Legislature increases the salary, without this having clause, it cannot be applicable to the Governor in whose term it is passed, and I say it will be a gross injustice not to apply it to him but to some man elected in the future. It is as just to give it to the man in whose term it happened, happening as it must in the very beginning of his term and without his connivance as to give it to somebody else.

MR. JONES (Montgomery)—The reason some of the members of the committee favored that was this: They believed that the gentleman who voted for the resolution did not intend to say that the Governor might get the increase, but that it shouldn't apply for four years from the time the next Governor went into office.

The amendment as amended was read as follows:

Amend the report of the Committee on Executive Department by adding to Article 5 a Section to read as follows:

"If the session of the General Assembly next after the ratification of this Constitution shall enact a law increasing the salary of the Governor, such increase shall become effective and apply to the first Governor elected after the ratification of this Constitution."

MR. MALONE—I would like to ask if that resolution would not make it to the advantage of the Governor elected at that time to have that law passed increasing his salary? Would not that be the effect of it?

THE PRESIDENT PRO TEM.—Will the gentleman from Tuscaloosa answer the question.

MR. KNOX—The object of the amendment is simply—

MR. MALONE—I have the floor.

THE PRESIDENT PRO TEM.—The gentleman from Henry has the floor, but the gentleman from Calhoun, rises, I understand, to answer the question.

MR. KNOX—It occurred to some of those who favored the increase of the Governor's salary that the provision which has been adopted by this convention on that subject, which prohibits

the increasing or diminishing of the salary of the Governor during his term of office, would prevent any relief to the Executive officer even though the next Legislature which is elected after the adoption of this Constitution should determine upon making an increase, and as it is probable, that the term of the Governor's office will be made four years, this would postpone for something like six years the effectiveness of that provision. The provision increasing the Governor's salary would not go into effect for certainly something like that time. Hence it was thought proper, if the Legislature approves of the suggestion made by the Convention, that the Governor's salary shall be increased, that a proviso should be embodied in this article which would enable the next Governor elected to enjoy the benefit of the increase provided the Legislature decides to make the increase and not postpone its consideration for the full term of four years.

MR. DUKE—Would that apply to the second Governor elected under this Constitution? To make my meaning clear, suppose the first Governor elected under the Constitution does not have his salary increased, suppose the Legislature fails to raise his salary, and then another Governor is elected and the Legislature increases the salary to $5,000, what effect would that have on the second Governor elected under the Constitution?

MR. KNOX—This resolution would not have any effect. It is limited in its term to the next Governor.

MR. DUKE—Would it not be better to let it apply to the Governor then in office?

MR. KNOX—It might be, I have no objection to that.

MR. SOLLIE—The provision of the section is contingent and conditioned upon the fact that the next Legislature after the adoption of this Constitution acts in this regard. Then the proviso would be effective, but if a subsequent Legislature takes it up and acts, then the proviso would not cover that enactment. The amendment was again read.

MR. SOLLIE—It is, as I thought it was.

MR. OATES—A good many of the delegates seem not to understand the purpose of the amendment. If they will recur to the fact that there is another clause in the Constitution and that has always been in there, and ought to be kept in there, that the salary of the Governor nor of any other of the State officers can be increased during their respective terms, I think they will see the application of this. The Legislature elected at the same time these officers are, Governor and Secretary of State, Auditor and Attorney General, could not raise any salary. This is proper. As to this case, the Legislature elected for instance after the rati-

fication of this Constitution, if they undertook to increase the Governor's salary as the resolution passed by this Convention invites them to do, could not give effect to the increase immediately, but only to apply away beyond. As the delegate from Calhoun very properly says it would be postponed practically for six years. This proposition offered by the delegate from Tuscaloosa is exceptional, and qualifies that section which prohibits the increasing of the salaries of the Executive officers during their terms, and allows the first legislature after the ratification of the Constitution to make a provision for increasing the salary of the Governo relected at the same time they are.

MR. MALONE—I dislike exceedingly to differ with gentlemen who have so much ability to argue their case, but as I understand it, the Governor coming in with that legislature would be interested to the extent of eight thousand dollars, to have that legislature pass that particular bill, and while I might favor a salary of five thousand dollars to the Governor I am opposed to putting him in a position to get such direct benefit from the action of the legislature over which he has the powers that have been demonstrated here. I do not think it is right and I think the General Assembly would be free to act as they see it. I am opposed to the Governor being directly interested to such a great extent in any law to be passed.

MR. PETTUS—I regret also to have to take issue with the distinguished gentlemen who are advocating this amendment, but it appears to me, after we have adopted the section to which the delegate from Montgomery has alluded, which provides in express terms that the General Assembly shall not increase the salary of any officers during their term of office, it would be unwise to make an exception in the case of the Governor or of any other of these officers. This Section 7 of the Committee's report is taken almost verbatim from the Constitution of 1875 and it seems to me in engrafting that section into this instrument we have recognized the wisdom of the principle that inducements should not be held out to any of the officers enumerated in this section to bring influence to bear upon the legislature for the purpose of having salaries increased. I am not opposed to an increase in the Governor's salary, if it comes through the proper forum, and at the proper time, and in the proper manner, but it seems to me it is unwise to put in the Constitution at the end of the Article a proviso or an exception which in effect declares that the Article we have already adopted was unwise, or that there should be an exception made to it in any instance.

Another reason why I think that this section proposed by the delegate from Tuscaloosa should not be adopted at this time is, that by resolution this matter has been left to the General Assembly. This Convention of the people assembled here, has declared that it is their opinion that the legislature should increase

the Governor's salary. It seems to me that is far enough to go along this line. If we go further and put this section in, it makes it almost compulsory upon the next legislature to increase the Governor's salary, and it seems to me it will be sufficient for the best interests of the State for the increase passed by the legislature to be passed under the general terms of the Constitution and not to have any retroactive effect, and not to take effect during the term of office of the next Governor to be elected under the Constitution.

MR. JENKINS—As a member of this Constitutional Convention, I want to say candidly that I am tired of this question of the Governor's salary. It seems to me that we were sent here but for one purpose and that purpose is to raise the Governor's salary. Every other day the question is brought up and this Convention is consuming time on these matters when we ought to be getting down to the important proposition for which we were actually sent here, namely, the reform of the suffrage.

I am opposed to the whole proposition of raising the Governor's salary. I believe if you raise the Governor's salary you ought to give the Supreme Court Judges some higher pay. They are hard worked people and are breaking down under the work they have, and if anybody deserves a raise it is they. I would vote ten times sooner to increase their salary than to increase the Governor, but I would vote against that proposition here today because we are not here to raise salaries and get up these outside discussions and consume time. The whole world don't depend on this. Every question along this line precipitates discussion and I say we should get to the proposition that we came here for, and we ought to vote down every proposition tending in any other direction. I am unalterably opposed to this resolution, and I hope the Convention will vote it down and that we may get on something else besides raising salaries.

MR. KNOX — It will be impossible for this Convention to take up the consideration of the report of the Committee on Suffrage until that Committee makes its report. The object of those who favor some increase in the Governor's salary, is simply to shape the Constitution in such a way as that the benefit of this increase will be enjoyed during this generation. It is not to be supposed that those who sincerely favor some relief to the Governor want to postpone it until the next generation, or want to put it off so many years. The circumstances are peculiar in this case, because it is proposed to increase the term of office of the next Governor from two to four years and so the benefit of this increase would be postponed for five or six years. Therefore, it seems to me as the gentleman from Montgomery suggests, that this case is an exception and that this proviso ought to be adopted. I therefore move the previous question upon the adoption of this section.

MR. COBB—Will the gentleman yield to me. I have an amendment which I think will be satisfactory, if he will withdraw that motion.

The delegate from Calhoun yielded, and the amendment was read as follows: "Add at the proper place the words 'if the General Assembly shall so determine.'"

MR. COBB—I have not the proposition before me, but those words can be inserted at the proper place. My object is this: Inasmuch as we have referred it to the General Assembly to determine whether there shall be an increase of salary, my amendment proposes that it shall also be referred to the General Assembly as to when that raise shall take effect. If the next General Assembly, immediately after the adoption of this Constitution, sees proper to raise the salary of the Governor, this also gives them the power to say whether it shall take immediate effect or not, so that they would not be hampered by the constitutional provision in making that addition to their act.

MR. HEFLIN (Chambers)—Suppose the next General Assembly should raise the salary of the Governor, what is there in the Constitution to prohibit the raise to the next Governor?

MR. COBB—That provision which says that the governor during his term of office shall not have his salary raised. My understanding of the purpose of this amendment is to avoid that provision in the Constitution which says that the salary of the Governor shall not be increased during the time of the then incumbent.

As the gentleman from Calhoun has well remarked, the situation is peculiar. The next Governor of Alabama will have been elected before the General Assembly convenes, and come into office just shortly afterwards. His term of office will have commenced before the General Assembly can pass this act. Hence, if we leave it as it stands it would no have the effect to raise the salary of the Governor who succeeds the present incumbent. My proposition is to leave the whole matter to the General Assembly and not to hamper them in what they propose to do by the constitutional provision to which I have referred.

MR. BULGER—I understand by your proposition you authorize the Legislature in 1906 to increase the salary of the Governor of that year. If the next Legislature should wish to raise the salary of the Governor, will your proposition authorize it to be done?

MR. COBB—My proposition is simply this, to give power to the General Assembly to raise the salary, if they see fit to do it, of the then incoming Governor, and not postpone it for four years, but it does not apply to any succeeding Governor. This

inhibition does not apply to any Governor except the one to immediately succeed this Governor. I move the previous question.

MR. HEFLIN (Chambers)—I don't think the gentleman understood the question of the delegate from Tallapoosa, if he did, I did not catch his answer. Suppose the next Legislature after the ratification of this Constitution, should fail to raise the salary of this Governor, does this amendment reach far enough to apply to the next Governor elected.

MR. COBB—I am willing to restrict it to the Governor next elected. I move the previous question on the whole pending measure.

MR. SOLLIE—There are two things before the Convention, can the Convention vote on two questions at once?

THE PRESIDENT PRO TEM.—There is only an amendment here and amendment to that.

A vote being taken the main question was ordered and a further vote being taken the amendment of the delegate from Macon was adopted.

On the question of the adoption of the Section as amended a call for the ayes and noes was sustained and the roll call resulted as follows:

AYES

Messrs. President,
Banks,
Barefield,
Beavers,
Beddow,
Bethune,
Boone,
Brooks,
Browne,
Burnett,
Cobb,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eyster,
Espy,
Ferguson,
Fitts,
Gilmore,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Greer, of Calhoun,
Haley,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Howell,
Howze,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Knight,
Kyle,
Leigh,
Locklin,
McMillan (Baldwin),
McMillan, of Wilcox,
Martin,
Merrill,
Morrisette,
Murphree,
Norman,
Norwood,
Oates,
O'Neill (Jefferson),
Palmer,
Parker, of Cullman,
Pitts,
Proctor,
Reese,
Robinson,
Samford,
Sanders,
Sanford,
Searcy,
Smith, of Mobile,
Tayloe,
Thompson,
Vaughan,
Waddell,
Watts,
Weakley,
Willet,
Williams, of Marengo,
Wilson, of Clarke,
Wilson, of Washington,

TOTAL—72.

NOES

Ashcraft,	Grayson,	Parker, of Elmore,
Bartlett,	Handley,	Pearce,
Blackwell,	Henderson,	Pettus,
Bulger,	Jenkins,	Phillips,
Burns,	Kirkland,	Porter,
Byars,	Lowe, of Lawrence,	Reynolds (Henry),
Cardon,	MacDonald,	Rogers, of Sumter,
Carmichael, of Colbert,	Malone,	Sloan,
Carnathon,	Miller, of Marengo,	Smith, Mac. A.,
Case,	Moody,	Sollie,
Chapman,	Mulkey,	Spears,
Davis, of DeKalb,	NeSmith,	Weatherly,
Foshee,	Opp,	Williams, of Barbour,
Freeman,	O'Rear,	Whiteside,
Glover,		

TOTAL 43.

ABSENT OR NOT VOTING

Almon,	Hodges,	Reynolds, of Chilton,
Altman,	Hood,	Rogers, of Lowndes,
Carmichael, of Coffee,	King,	Selheimer,
Cofer,	Ledbetter,	Sentell,
Coleman, of Greene,	Lomax,	Smith, Morgan M.,
Coleman, of Walker,	Long, of Butler,	Sorrell,
Cornwall,	Long, of Walker,	Spragins,
Craig,	Lowe, of Jefferson,	Stewart,
Cunningham,	Maxwell,	Studdard,
Eley,	Miller, of Wilcox,	Walker,
Fletcher,	O'Neal, of Lauderdale,	White,
Foster,	Pillans,	Williams, of Elmore,
Greer, of Perry,	Renfro,	Winn.
Harrison,		

So the Section as amended was adopted.

MR. JONES (Montgomery)—I move that the ordinance be put on its final reading and passage.

MR. BLACKWELL—I offer an amendment.

MR. JONES (Montgomery)—For what purpose?

MR. BLACKWELL—It don't interfere with any Section in the Article.

MR. JONES (Montgomery)—Can you tell me what it is?

MR. BLACKWELL—I am perfectly willing to show it to you.

The amendment was read as follows:

Amend the report of the Executive Committee by adding Section 31 as follows: That when vacancies happen by resignation or otherwise, in any office, the Governor shall make temporary appointments until the next election at which members of the General Assembly are elected, and at said election the qualified electors by direct vote shall fill such vacancy or vacancies.

MR. deGRAFFENREID—I have an amendment which I desire to offer to the substitute and I ask the gentleman to yield the floor for that purpose.

The amendment was read as follows:

Substitute offered for the amendment of the delegate from Morgan.

"Sec. 31. The Court of County Commissioners shall have authority when any vacancy occurs in any county office to appoint some qualified elector of such county to perform the duties of said office until the next general election by the people, when the people voting at such election shall vote for some qualified elector to hold said office and who shall hold said office during the unexpired term and until his successor is duly elected and qualified."

MR. GRANT—I move to lay that on the table.

MR. BLACKWELL — The amendment I offered provides when a vacancy occurs in a county office the Governor shall fill that vacancy temporarily and at the next general election at which members of the Legislature are to be elected that the people shall have the right by direct vote of the people to fill that office. The amendment of the delegate from Hale provides that the Probate Judge, and County Commissioners shall fill this office temporarily rather than the Governor. This is in harmony with the action we have heretofore taken. It looks to the restoration of power to the people, where our government originally located it.

MR. HARRISON—What would be the good of your Section, as these people as these people are elected for four years.

MR. BLACKWELL—As a matter of fact Probate Judges are elected for six years and so are Circuit Clerks. As a matter of fact, however, the appointments will only be for two years, cannot be for longer than two years, whereas, now it may be for four or six years. My object is to restore to the people as much power as it is possible to give them to elect their own officers and to decide who shall speak for them as officers. It seems to me there can be no objection on the part of any man to saying that the people themselves shall have a right at the general election for representatives to fill an office that has been temporarily filled by the appointment of the Governor. That is a curtailing of the Governor's power. We know, as a matter of fact, from the statements of gentlemen here who have occupied the office of Gov-

ernor, that the Governor appoints a thousand men to office every year, according to the statements made. The result is, whether it is desired or not, a mighty machine is built up by the appointment of the Governor to these terms. These thousand men a year make 4,000 during the term of the Governor and that is sixty men to a county that the Governor appoints and 91 per cent. of those are the advocates of things that the Governor may want even if a year elapses between the time he goes out of office and he is again eligible. This gives the people the power just as soon as it is possible to give it to them to fill these places.

The objection to the amendment of the delegate from Hale is that he transfers the power to make these appointments to the commissioners courts and probate judges. The Governor is entirely removed from all local influences and he is not entirely dependent on the county for re-election as the probate judges and commissioners courts are and I would think he would be less likely to be affected by influences that will warp his judgment than the commissioners and probate judges, freer from selfish interests, and, therefore, I hope the amendment I offer will be adopted, giving the right to temporarily appoint until the people elect.

MR. JACKSON—If this were left to the probate judges, and to the commissioners, would it not be more in the hands of the people than if left to the Governor.

MR. BLACKWELL—I think not. I think as a matter of fact the probate judges and the commissioners are elected by one county and that county alone and if political influence were brought to bear upon them in that county to make the appointment they might be more influenced to make certain appointments than the Governor could be, who is not elected by one county alone. Therefore, I think the Governor is the best repository for this power.

MR. SAMFORD—I don't see any necessity for adding this section. I think the Convention has taken up entirely too much time on this amendment, and I move to lay the amendment on the table.

MR. deGRAFFENREID—I will ask you to withdraw that motion for me a second.

MR. SAMFORD—I will, if you will renew it.

MR. deGRAFFENREID—I will yield the floor to you for that purpose.

The object of my amendment is simply to bring as close to the people of the State as possible the filling of the offices. This is a government of the people.

MR. BEDDOW—Under your plan suppose a vacancy should occur in the office of Circuit Court Judge or Solicitor.

MR. deGRAFFENREID — Circuit Court Judges and Solicitors are not county officers. This applies only to county officers.

MR. BEDDOW—I did not understand it.

MR. deGRAFFENREID—As I was going to say, the very argument the gentleman makes and the very concession in his amendment that the Governor should not fill for the entire unexpired term because of the fact that the people who are interested are the people who should fill that unexpired term, is an argument to this Convention in favor of the amendment which has been offered by me as a substitute. The law has already placed in the hands of the Court of County Commissioners the power to fill the vacancies in the case of the Treasurer. Section 1427 of the Code of Alabama provides that vacancies in the office of county treasurer are filled by appointment of the Court of County Commissioners.

MR. SAMFORD — Is there anything in this Constitution which would prohibit the Legislature from making these other county officers appointed by the Court of County Commissioners?

MR. deGRAFFENREID—None in the world.

MR. SAMFORD—Then would it not be unwise for the Convention to be putting in any clauses about that?

MR. deGRAFFENREID — I don't think it would be improper for this Convention to limit the power of the Legislature in that regard, and say that the people who stood nearest to these officers should have the appointing power instead of the Governor. The very proposition that the Convention has proceeded upon that the Governor should not be his own successor has grown out of the proposition that the Governor can use his office for his own ends or for the ends of his friends and as the people themselves have the power to elect the county officers, it seems it would be getting nearer to the people if we put this power in the Court of County Commissioners rather than the Governor.

Something was said this morning about the fact that on Saturday afternoon members didn't have time to consider an important question. If there is any merit in the amendment offered by me or in the amendment offered by the gentleman for which mine is a substitute time and discussion and consideration will show it, and if the gentleman will permit me in order that this Convention may have time to consider it, we have not a full body here this morning, I move that the consideration of this matter be laid over until tomorrow.

MR. DUKE—I move to lay that motion on the table.

A vote being taken the motion was tabled.

MR. HEFLIN (Randolph)—I move that we table the substitute offered by the gentleman from Hale.

A vote being taken the subject was table.

MR. SAMFORD—I move that we lay on the table the amendment proposed by the gentleman from Morgan.

The motion was carried on a division by a vote of sixty-six ayes and twenty-eight noes.

MR. SAMFORD—I move the adoption of the entire Article and upon that I call for the previous question.

MR. BURNS—I have the consent of the distinguished member of the Executive Committee to offer an amendment.

MR. JONES (Montgomery) — I hope the gentleman will withdraw the call for the previous question and allow this amendment to be offered.

The motion for the previous question was withdrawn and the amendment of the delegate from Dallas was read as follows:

Amend the entire Article by adding Section 31 as follows: In case any sheriff or any member of his posse be killed or permanently disabled while protecting a prisoner in his charge, the General Assembly shall provide for the maintenance of those dependent upon those who are killed or disabled.

MR. BURNS—The amendment speaks for itself. We have an ordinance requiring a sheriff to lay down his life to defend a prisoner and if he or any of his posse lays down their lives, his family ought to be provided for.

A vote being taken, a division was called for.

Before the announcement of the vote—

MR. JONES (Montgomery)—I desire to change my vote, for the purpose of moving a reconsideration. I vote no.

By a vote of fifty ayes and fifty noes the amendment was lost.

MR. SAMFORD—Now I move that the article be put upon its third reading, and upon that I call for the previous question.

MR. JONES—Mr. President, if it is admissible, I would like to change my vote again. I simply changed it for the purpose of reconsideration.

MR. WILSON (Washington)—I call for a verification of the vote.

MR. SAMFORD—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. SAMFORD — The request for verification comes too late. I have been recognized and I have made a motion.

THE PRESIDENT—It seems to the Chair that after subsequent business has intervened, that it is too late to move for a verification.

MR. BURNS—I thought we always had a right to demand a verification of the vote, if there is one had. I noticed several delegates' votes that were not counted.

MR. JONES (Montgomery)—If the house will permit me, I suggest that we take up this matter and reconsider it now. I move to reconsider it. We can do it by unanimous consent, and can get rid of it in twenty-five minutes.

There were expressions of dissent.

THE PRESIDENT—In answer to the gentleman from Dallas, the Chair is of opinion that any delegate has a right to ask for a verification of the vote, if asked for in time, but after the result of the vote is announced, and the house has proceeded to other business, and other business is pending it is too late to call for a verification. What is the motion of the gentleman from Pike?

MR. SAMFORD—I move the ordinance be put upon its third reading.

MR. HOWELL—Will the gentleman give me one word?

MR. SAMFORD—No sir.

MR. HOWELL—You will get in a tangle if you don't mind; that document ought to be engrossed before it goes to a third reading.

MR. JONES (Montgomery)—I wish to state that the majority of the committee, in the present condition of this ordinance, do not desire it to be put upon a third reading. The gentleman, of course, has the right to make the motion, but he does not make it as the representative of the committee.

MR. REESE—I move that consideration of the motion be postponed until tomorrow.

THE PRESIDENT—The gentleman moves that the motion of the gentleman from Pike that the bill be ordered to a third reading be postponed—until what time?

MR. REESE—Immediately after the reading of the Journal.

The motion to postpone consideration was carried.

MR. HOWELL — I move that that article be ordered engrossed.

THE PRESIDENT—Further consideration of the article has been postponed until tomorrow.

Mr. Jones and Mr. deGraffenreid replied in the negative.

MR. JONES (Montgomery)—I would like to inquire when the motion to reconsider the vote by which the amendment offered by the gentleman from Dallas and which was laid on the table, will be in order under our rules.

THE PRESIDENT—It is in order now, and will go over for consideration until tomorrow after the reading of the Journal.

MR. CARMICHAEL (Coffee)—Could not the rules be suspended, so that it could be considered now?

THE PRESIDENT—The rules could be suspended, but the house has postponed further consideration of this whole matter until tomorrow after the reading of the Journal.

MR. FOSTER—I ask leave to offer a resolution.

The resolution was read as follows:

Resolved that beginning with today, the afternoon sessions of this Convention shall be from 4 o'clock p.m. until 6 o'clock p.m.

MR. FOSTER—I move a suspension of the rules, that the resolution may be put upon its immediate passage.

MR. SAMFORD—I will state several committee meetings are fixed for shortly after 5 o'clock.

MR. REESE—I move to lay the resolution on the table.

THE PRESIDENT—The gentleman from Tuscaloosa has the floor.

MR. deGRAFFENREID—Will you allow me to state a fact which comes from the newspaper men doing the work? They state they it will be impossible to do the work if the Convention determines to have later sessions.

MR. FOSTER—I withdraw the resolution then, Mr. President.

THE PRESIDENT—Does the gentleman desire that it be referred to the Committee on Rules?

MR. FOSTER—Yes, let it go to the committee.

THE PRESIDENT—The next regular order will be the report of the Committee on Taxation. Consideration of the report

of the Committee on Taxation was made a special order immediately after the consideration of the report of the Committee on Executive Department.

MR. WEAKLEY—I ask unanimous consent to submit a report from the Committee on Municipal Corporations.

There was no objection.

MR. WEAKLEY—Before making this report I desire to say that the Committee on Municipal Corporations reported two separate sections of the article, consideration of which, at the suggestion of the Convention, was postponed until the completed article was reported by the committee. The committee have now reported the complete article, embracing the two sections already reported to the Convention, and before substituting this complete report we ask that the sections heretofore reported be recommitted to the committee. We ask unanimous consent that this be done.

There being no objection, the sections were ordered recommitted to the committee.

MR. BULGER—I ask leave to introduce a resolution.

Objection was made.

MR. WADDELL—I call for the regular order.

The report of the Committee on Municipal Corporations was thereupon read as follows:

Report of the Committee on Municipal Corporations:

Mr. President—The Committee on Municipal Corporations instruct me to make the following report:

After mature consideration of all the ordinances submitted to them they herewith report the attached Article which they recommend shall be adopted by this Convention as Article —— of the new Constitution under the caption of "Municipal Corporations."

All ordinances referred to this Committee are herewith returned.

Respectfully submitted,

John B. Weakley, Chairman.

ARTICLE ——.

Municipal Corporations.

Section 1. All municipal corporations shall have the right to sue and shall be subject to be sued in all courts in like manner as natural persons.

Sec. 2. Municipal corporations shall be invested with the privilege of taking private property for public use, but shall make just compensation

for property taken, injured or destroyed by the construction or enlargements of its works, highways or improvements, which compensation shall be paid before such taking, injury or destruction. The General Assembly is hereby prohibited from depriving any person of all appeal from any preliminary assessment of damages against any such municipal corporations made by viewers or otherwise; and the amount of such damages in all cases of appeal shall on demand of either party be determined by a jury according to law.

Sec. 3. The General Assembly shall have power to establish, alter, enlarge or diminish the boundaries of any city, town or village in this State, but notice of such intended change shall be given by publication in some newspaper published in the village, town or city to be affected for thirty days prior to the meeting of the General Assembly, if no newspaper is published in said city, town or village then said notice shall be given by posting copy thereof at three public places in said city, town or village, and said notice shall be spread upon the Journal of the House in which the bill proposing such change is introduced.

Sec. 4. No city, town or village shall be authorized or permitted to grant any franchise or privilege or make any contract in reference thereto for a term exceeding twenty years, nor shall any city, town or village grant any rights of way over or right to use any street or public way or part thereof except to the person or corporation offering the highest sum therefore or the highest per centage of gross annual receipts to be derived from the business so using the right of way or street or public place. No such privilege shall be granted until the applicant therefor shall have given notice by publication for thirty days in some newspaper published in the city, town or village of his intention to ask for such franchise and the date upon which such application shall be made, and the person, firm, association or corporation to whom such franchise is granted shall be liable for any damages inflicted upon the property of abutting proprietors.

Sec. 5. No street railway, gas, water, steam or hot water heating, telephone, telegraph, electric light or power company within a city, town or village shall be permitted or authorized to construct its tracks or mains or erect its poles, posts or other apparatus or string its wire upon the same, along, over, under or across the streets, avenues, alleys or public grounds of such city, town or village without the consent of the proper municipal authorities of such city, town or village being first had and obtained.

Sec. 6. The General Assembly shall not enact any law which will permit a person, firm, corporation or association of any character to pay a privilege license or other tax to the State of Alabama, and relieve him or it from the payment of all other privilege and license taxes in the State.

Sec. 7. No county, city, town, village, district or other political subdivision of a county shall have authority or be authorized by the General Assembly after the ratification of this Constitution to issue bonds, unless such issue of bonds shall have first been approved by majority vote by ballot of the qualified voters of such county, city, town, village, district or other political sub-division of a county voting upon such proposition. In

determining the result of any election held for this purpose, no vote shall be counted as an affirmative vote, which does not show on its face that such vote was cast in approval of such issue of bonds. This section shall not apply to the renewal, refunding or reissue of bonds lawfully issued, nor prevent the issuance of bonds in cases where the same have been authorized by laws enacted prior to the ratification of this Constitution, nor shall this section apply to obligations incurred or bonds to be issued to procure means to pay for the property abutting said improve-sanitary or storm water sewers, the cost of which is to be assessed against the property abutting said improvements or drained by such sanitary or storm water sewers.

Sec. 8. That no city, town or village shall hereafter become indebted for any purpose or in any manner to an amount which including existing indebtedness shall exceed 7 per centum of the assessed valuation of the real and personal property within said city, town or village subject to taxation as shown by the last preceding assessment for State and County purposes, provided, however, that in determining the limitation of the power of such city, town or village to incur indebtedness there shall not be included the following class of indebtedness, to wit:

(a) Notes, certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, unless the same be not paid within two years from the date of such issue and all such notes, certificates of indebtedness, and revenue bonds shall be provided for, and made payable from the taxes levied for the year in which they are issued, and shall never exceed the amount of such taxes.

(b) Bonds issued for the purpose of purchasing or otherwise providing for a supply of water or for the construction or installation of sanitary sewers, or for the extension of either of the same.

(c) Obligations incurred and bonds issued to procure means to pay for street or sidewalk improvements or storm water sewers, the cost of which is to be assessed against the property abutting or drained by such sewers.

(d) Debts created for the preservation of the public health.

(e) Debts existing on the 6th day of December, 1875, or any obligation issued to renew or refund the same.

Sec. 9. No city, town or village whose present indebtedness exceeds the limitations herein imposed shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit; provided, however, that nothing herein contained shall prevent any municipality from issuing bonds in renewal or for the refunding of obligations already existing.

Sec. 10. The General Assembly shall provide by general laws for the organization and classification of cities, towns and villages; the number of such classes shall not exceed four, and the powers of such class shall be defined by general laws so that all municipal corporations of the same class shall possess the same powers and be subject to the same restrictions.

The General Assembly shall assign the cities, towns and villages of the State to the class to which they respectively belong and change assignments made as populations of such cities, towns and villages increase or decrease, and in the absence of other satisfactory information as to their population, the General Assembly shall be governed by the last preceding Federal census, provided, however, that any city, town or village in Alabama may in the year 1905, and every ten years thereafter cause a census of all its inhabitants to be taken, and the General Assembly may change the classification of such city, town or village according to the result of such census.

Any city having a population of more than 20,000 inhabitants may frame a charter for its own government, not in conflict with this Constitution, whenever the Mayor authorized by a majority vote of the legislative body of such city shall have made application to the Judge of the Circuit Court for the appointment of the Board to be composed of nine qualified electors who shall have been for at least five years residents of such city. If the Judge of the Circuit Court is a non-resident of the county in which said city is located, then such application may be made to the Judge of any State Court of Record of General Common Law Jurisdiction, residing in such county, and the said application and the appointments made thereon shall be entered of record by the Clerk of such court.

Said Board shall within ninety days after such appointment return to the chief magistrate of such city the draft of such charter signed by a majority of said board; within thirty days thereafter, such proposed charter shall be submitted to the qualified voters of such city at a special election to be called by the Mayor, if a majority of such qualified voters voting thereat shall ratify the same, it shall be at the end of thirty days thereafter become the charter of such city, and supersede any existing charter or amendments thereto, and all special acts of the General Assembly relating to the corporate organization or government of such city, other than laws securing and enforcing the payment of the debts of such city.

A duplicate certificate shall be made setting forth the charter proposed, and its ratification which shall be signed by the chief magistrate of such city, and be authenticated by its corporate seal; one of such certificates shall be deposited in the office of the Secretary of State, and the other shall be deposited among the archives of such city and all courts shall take judicial notice of such charter. Such charter so adopted may be amended at intervals of not less than four years by proposals therefor, submitted by the Legislative authority of the city to the qualified voters therefor, at a general or special election held at least thirty days after the publication of such proposals in two newspapers of said city, and ratified by a majority of the qualified voters voting thereat. In any such charter or amendments thereto any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to the others.

Sec. 11. No city, town, village of other municipal corporation other than provided for in this article shall levy or collect a higher rate of taxa-

tion in one years on the property situated therein than one-half of 1 per centum of the value of such property as assessed for State taxation during the preceding year, provided, that for the purpose of paying debts existing on the 6th day of December, 1875, and the interest thereon a tax of 1 per centum may be levied and collected, to be applied exclusively to the payment of such indebtedness, and provided, further that this Section shall not apply to the city of Mobile, which city may from and after the ratification of this Constitution levy a tax not to exceed the rate of three-fourths of 1 per centum, to pay the expenses of the city government, and may also levy a tax not to exceed three-fourths of 1 per centum to pay the debt existing the 6th day of December, 1875, with the interest thereon or any renewal of such debt, and provided, further, that this section shall not apply to the cities of Birmingham and Huntsville, which cities may levy and collect a tax not to exceed one-half of 1 per centum in addition to the tax of one-half of 1 per centum as hereinabove allowed to be levied and collected, such special tax to be applied exclusively to the payment of interest on the bonds of said cities of Birmingham and Huntsville as heretofore issued in pursuance of law, and for a sinking fund to pay off said bonds at the maturity thereof.

And provided, further, that this Section shall not apply to the cities of Troy, Attalla, Gadsden, Bessemer, Woodlawn and Florence, which cities may from and after the ratification of this Constitution levy and collect an additional tax not exceeding one-half of one per centum per annum, but this additional tax shall not be levied unless authorized by a majority vote of the qualified electors voting at a special election held for the purpose of ascertaining whether or not said tax shall be levied.

MINORITY REPORT

The undersigned, a member of the Committee on Municipal Corporations does not concur with the majority of the committee in the report submitted and therefore moves to strike out the tenth Section of the report, and respectfully offers the following substitute in lieu thereof:

The General Assembly shall have authority to incorporate cities, towns and villages by a general law which shall grant to all municipalities the same powers, rights and privileges and shall not discriminate between municipalities in the powers, rights and privileges granted, on account of population, situation, condition, the pursuits of the people, or for any reason whatever. The General Assembly shall grant to no municipality of community the right to establish or amend its own charter, but all municipal charters shall be granted or amended by special laws formed under a general law equally applicable to all communities. Provided, that no charter or amendment thereof shall be valid until it shall be accepted or ratified by a majority of the qualified electors residing within the limits of such municipality, and voting at an election held for that purpose.

J. W. A. Sanford.

THE PRESIDENT—The report of the Committee on Municipal Corporations and the ordinance reported by it, will lie upon the table, together with the minority report.

MR. WADDELL—I move that we do now adjourn.

THE PRESIDENT — The Chair will inquire whether the gentleman wishes the report of the Committee to be printed with the ordinance reported? The rules require the printing of the ordinances, but not the reports.

MR. WEAKLEY—I ask that the report of the Committee be printed.

MR. SAMFORD—I ask if that carries the minority report with it?

To which there were expressions of assent.

THE PRESIDENT—It is moved that the report of the Committee, and the minority report be printed, with the accompanying ordinance.

And the motion was carried.

MR. HEFLIN (Randolph)—I move that the Convention do now adjourn.

The motion prevailed and the Convention adjourned until 3 p. m.

AFTERNOON SESSION

The Convention met pursuant to adjournment and a roll call disclosed the presence of ninety-five delegates.

MR. SANFORD—I ask leave to introduce an ordinance.

Unanimous consent was given.

MR. O'NEILL (Jefferson)—Have I the right to introduce an ordinance at this time?

THE PRESIDENT—No ordinance can be introduced at this time as a matter of right, but only by common consent.

The resolution introduced by the delegate from Montgomery was read as follows:

Ordinance No. 396, by Mr. J. W. A. Sanford:

An ordinance to prohibit the General Assembly from authorizing lotteries, gift enterprises or pool selling on sports or games of any kind of description.

Be it ordained by the people of Alabama in Convention assembled, That the General Assembly shall have no power to authorize lotteries or gift enterprises, and shall enact laws prohibiting the sale of lottery or gift enterprise tickets; pool selling on horse racing, prize-fighting, and on all sports and games of any description, wherever such horse races, prize-fights and sports and games may occur.

Referred to Committee on Legislative Department.

MR. O'NEILL (Jefferson)—I desire to ask unanimous consent to send up a short ordinance.

MR. CARNATHON—I object.

MR. BURNS—I rise to a point of order. The gentleman objecting is not in his seat.

THE PRESIDENT—The point of order is well taken. The clerk will read the resolution.

MR. WADDELL—I objected.

THE PRESIDENT — The Chair failed to hear the gentleman his voice is so mild and soft.

The resolution was read as follows:

Ordinance No. 397, by Mr. O'Neill of Jefferson:

Be it ordained by the people of Alabama in Convention assembled that—

The legislature may provide that at the general election immediately preceding the expiration of a term of a United States Senator from this State, the electors may by ballot, express their preference for some person for the office of United States Senator. The votes case for such candidates shall be canvassed and returned in the same manner as for the State officers.

Referred to Committee on Legislative Department.

Mr. Henderson, in the rear of the hall, desired to be recorded as present.

MR. REESE—I make the point of order there is a rule providing for the manner in which gentlemen can have their presence noted.

THE PRESIDENT—The rule is that gentlemen wanting to be recorded as present can have that done by notifying the Clerk.

Leave of absence was granted to Mr. Macdonald for this afternoon.

THE PRESIDENT — The order of business this afternoon will be the consideration of the report of the Committee on Taxation.

MR. BROWNE—Before going into the consideration by sections of the Article as reported by the committee, I desire to briefly state for information of the convention the amendments proposed by the committee. In Section 1 the only amendment proposed is that "no tax shall be assessed upon any debt for rent or hire of real or personal property while owned by the landlord or hirer—

MR. WADDELL—I rise to a point of order.

THE PRESIDENT—The gentleman will state his point of order.

MR. WADDELL—The point of order is that the consideration of this Article must be taken up section by section. That is the order and the gentleman is reading a report made by that committee with which we have nothing to do.

MR. OATES — I rise to a point of order. The universal parliamentary law in all legislative bodies is that the chairman of the committee who is reporting anything is considered to have the right in the introduction to explain the whole matter to the body, which I presume the delegate from Talladega is doing, and when you come to consider, of course it is to be read section by section—I do not understand that it is to be done now.

MR. WADDELL—I insist that this report of the committee was read; it has already been read, and that courtesy has already been shown, but he is re-reading what has already been read.

MR. BROWNE—I move to amend the first section of the Article as reported by the committee by adding thereto every other section as reported by the committee, and upon that I desire to be heard.

THE PRESIDENT—The gentleman will proceed.

MR. BROWNE—Section 1, as amended by the committee—the amendment as proposed by the committee to Section 1—provides that no tax shall be assessed upon any debt for rent or hire of real or personal property while owned by the landlord or hirer, during the current year of such rental or hire, and when such real or personal property is assessed at its full value. That amendment was introduced to meet a recent decision of the Supreme Court, wherein they have held that a rent note or any other contract for rent was taxable during the current year in the hands of the landlord, notwithstanding the property for which it was given was assessed at its full value. The committee conceived that to be double taxation in its worst form, and, therefore, provided that amendment. There is no amendment to Section 2. Section 3 has been so amended as to provide that the Governor may negotiate temporary loans never to exceed three hundred thousand dollars, whereas heretofore that loan was limited to

one hundred thousand dollars. A further amendment has been proposed to that section providing for the refunding of the State's bonded indebtedness. As the section stands in the present Constitution, there is a provision against the State's creating any indebtedness, but that it should not apply to funding the existing indebtedness of the State. That indebtedness has already been funded, and this proviso is changed so that the section shall not apply to the refunding of the present bonded indebtedness of the State. Section 4 has been amended by limiting the rate of taxation for State purposes to 65-100ths of one per centum, instead of 3-4 of one per centum. Here I desire to say that there were several ordinances introduced and referred to the Committee on Taxation looking to the lowering of the State rate of taxation. Some of those ordinances put the State rate—limited it to 55, some to 60, some to 62 1-2 and one to 65. The committee, after a most thorough and careful examination into the finances of the State, and after a long conference with Judge Cook of the Auditor's office, determined to recommend the limit of 65-100ths of one per cent, and I desire to be allowed the privilege to incorporate, without making an oral statement, the figures in my remarks for publication in the stenographic report, a statement showing why and how this limit can be safely placed upon State taxation. Unless objection is made, I will not read these figures, but will ask unanimous consent that they go into the stenographic report as part of my remarks.

MR. FOSTER (Tuscaloosa)—I object. The facts ought to be known. I would like for the figures to be read.

The clerk then read the statement as follows:

Statement No. 1:

Estimate of Auditor's Office of receipts and disbursements for fiscal years ending September 30, 1901, made October 1, 1900:

Total estimated receipts	$2,547,500.00
Total receipts will be	2,812,811.11
Excess of receipts over estimate	$ 265,311.11
Estimated disbursements	$2,526,970.00
Disbursements will be	2,754,043.09
Excess of disbursements over estimate	227,073.09
Excess of actual receipts over actual disbursements	58,768.02

The above receipts and disbursements are arrived at as follows:

1901.

June 18, amount cash receipts to date	$2,612,311.11

Estimated receipts to September 30, 1901	200,500.00
(Estimated at about the same rate of increase over receipts for same period of last year as has been the receipts to June 18, 1901, over the receipts prior to June 1, 1900.)	
	$2,812,811.11
1901.	
June 18, by disbursements to date	$2,313,823.09
Estimated disbursements to September 30, 1901	440,220.00
	$2,754,043.09
Excess of receipts over disbursements	58,768.02
1900.	
Oct. 1, amount of cash balance in Treasury	$ 620,767.68
1901.	
Oct. 1, cash in Treasury, (estimated)	$ 679,555.70
The estimated cash balance for October 1, 1901, is made up as follows:	
Cash balance on October 1, 1900	$ 620,767.68
Amount excess of receipts over disbursements for fiscal year ending Sept. 30, 1901	58,768.02
	$ 679,555.70

Statement No. 2:

Estimate of net gain to the Treasury for fiscal year ending September 30, 1902, over fiscal year ending October 1, 1901:

Cash in Treasury Oct. 1, 1901, in excess of balance of Oct. 1, 1900, (in round numbers)	$ 59,000.00
Amount paid on the deficit during fiscal year ending Sept. 30, 1901	$ 82,000.00
Amount of extraordinary appropriation for present fiscal year:	
Refunding licenses paid under invalid law	$ 40,000.00
Montevallo Girls' School Building	32,000.00
Expenses Constitutional Convention	50,000.00
Half of legislative expenses	25,000.00
	$ 147,000.00
Total gain	$ 288,000.00
Deduct book-keeping deficit, October 1, 1901, (estimated)	$ 9,000.00
Net gain	$ 279,000.00

These figures show:

First—The deficit which was several years ago, in round figures, $700,000.00, has been practically wiped out, and the Treasury will, in 1902, be relieved of the burden imposed on it by such deficit to the extent of the amount by which it was reduced in 1901, namely, $71,000.00.

Second—The gain to the Treasury in cash on October 1, 1901, over the same period in 1900, as above shown, will be	$	59,000.00
Third—The gain to the Treasury in addition to above for 1902 over 1901 on account of extraordinary appropriations for 1901, will be		147,000.00
Total gain for 1902 over 1901	$	279,000.00
Should taxable values for 1902 remain the same as for 1901 and the rate of taxation for general purposes be placed at 45 instead of 55 cents on the $100 the decrease from property tax would be about	$	247,000.00
Excess of lessened expenditures over lessened receipts	$	32,000.00

The foregoing statements and figures show that the rate of taxation for general purposes could well be reduced from 55 to 45 cents for 1902, and there would then be a surplus of receipts over expenditures of about $32,000, without counting upon any increase of receipts from property and license taxes. But the increase of taxable property values for 1902 can safely be estimated at as much as the increase of such values for 1901 over 1900, namely $8,000,000. From such increase the tax at a 45 cent rate would be $36,000. The excess of receipts for licenses for 1902 over 1901 are conservatively estimated at $20,000. Adding these figures we have a total excess of receipts over disbursements for 1902 of at least $88,000 with a rate of 45 cents.

But out of strict conservatism the Committee decided to recommend that the 45 cent rate for general purposes only go into effect beginning with the year 1903.

In fixing the rate at 65 cents it was contemplated that 45 cents thereof would be sufficient for general purposes, leaving the special one mill tax each for school purposes and for pensions unaffected.

With the rate at 55 cents for general purposes for 1902 it will be seen that there will be an actual surplus (in addition to the actual cash balance) in the Treasury on October 1st, 1902, of

no less than $279,000 with taxable values and receipts from licenses remaining at a standstill, and of not less than $321,000 should receipts from taxes and licenses increase for 1902 in the same amount as was such increase for 1901 over 1900. But there is an actual cash balance carried over in the Treasury on October 1st, 1900 of $621,000 (in round figures), against which it is true there were chargeable liabilities in an amount somewhat (but not greatly) in excess thereof. But, as a matter of fact, this cash balance remained practically untouched and those liabilities were largely paid in October, November and December, 1900, out of the tax and license receipts of the Treasury during those months.

There will be an actual cash balance in the Treasury on October 1st, 1901, of $679,000. It makes no difference whether this amount is called a surplus or not. In one sense it is a surplus, in another sense it is not a surplus. It certainly has the same force and effect to all practical purposes as a surplus in the event the State continues in business and continues to collect sufficient other monies to pay the liabilities chargeable against these balances without resorting to them. It is a cash balance with no outstanding warrants against it. Should the State government be dissolved October 1st, 1901, there would be payable but of this cash balance the October, November and December liabilities, in amount about the same as the balance. While these liabilities are chargeable against that balance, they are as a matter of fact not paid out of the Treasury faster than are the tax receipts of October, November and December, 1901, paid into the Treasury. So long as yearly disbursements are not in excess of receipts, and so long as the State continues to levy and collect taxes, this actual cash balance will remain in the Treasury unexpended and might be considered a safety fund to be used in case of some unforeseen misfortune.

The condition of the Treasury on October 1st, 1902, will be as follows:

Cash balance (at least)	$ 679,000.00
Actual surplus in addition (at least)	321,000.00
Total cash balance	$1,000,000.00

Against which there will be liabilities (book-keeping) payable in October, November and December, 1902, about equal to the first item of $679,000. But the receipts of the Treasury during those months will be more than sufficient to meet these liabilities without drawing out 1 cent of that cash balance.

In the foregoing statements and deductions it has not been taken into consideration that the State can, by refunding its bonded indebtedness, which matures in 1906 diminish its interest

expenditures by about $120,000. Neither has it been taken into consideration that under the law exempting cotton factories from taxation until 1907, there is being invested in such industries in Alabama about $8,000,000 a year. Nor has it been taken into consideration that taxable values during the years immediately following an era of depression ascend in increasing ratio.

The era of lowest depression of taxable values of late years was 1895 and 1896. In four years from 1896 to 1900 inclusive, taxable values increased $22,500.00, notwithstanding the rate of taxation, general and special, was during that time increased by 1 1-2 mills. It is a well known fact that the increasing of the tax rate has the effect of decreasing taxable values, and on the other hand the decreasing of the tax rate has the effect of increasing taxable values. If these last matters be taken into consideration it would be safe to estimate that notwithstanding the proposed reduction in the tax rate there can easily be accumulated a large surplus in the Treasury unless the General Assembly reduces the levy below the proposed limit on the one hand, or upon the other makes large special and extra appropriations.

MR. BROWNE—The remaining changes in the Article reported by the committee are as follows:

In Section 5 for a levy of a special tax by counties for the construction of public roads. In the present Constitution, any county may levy such special tax for public buildings and bridges as may be authorized by law. There is no constitutional limit, upon this special tax, but there is no provision in the present Constitution for the levy of a special tax for roads. The committee so amended this section as to limit that special tax for public buildings and roads to one-quarter of one per cent., and provided that the fund might also be expended for public roads as well as for public buildings and bridges. There is also a proviso that any county may, for public school purposes, levy and collect such special tax as may be authorized by law, provided that the tax must be first voted by a majority in numbers and in value of taxable property, and provided, further, that such special tax shall not be allowed when it shall increase the total rate of taxation for State and county purposes to more than $1.25 upon every $100 of taxable property, exclusive of the special tax for bridges, etc.

Section 6 has only been amended by striking out the words "and enterprises." It reads now; "The property of private corporations, associations and individuals of this State shall forever be taxed at the same rate; provided, this section shall not apply to institutions and enterprises devoted exclusively to religious, educational or charitable purposes." The words "and enterprises," after the word "institutions," have been stricken out by the committee.

Section 7 has been so amended as to incorporate therein the Birmingham amendment. It has further been amended so as to provide that a city can levy a special school tax, provided such special tax shall not be levied and collected when it shall cause a greater rate of taxation in any one year than $1.75 for all State, county and city purposes, exclusive of the special county tax for bridges, etc.

Section 8 of the Constitution of 1875 has been stricken out. That section provided that the General Assembly was to lower certain salaries. There is no room now for its operation, and it was stricken out.

There has been added to the Article by the committee, Sections 9 and 10. Section 9 provides, "No county shall become indebted in an amount greater than five per centum of the taxable value of the property thereof; provided, this section shall not apply to any indebtedness in excess of such five per centum, which has already been created, or authorized by law to be created." The committee recommend an amendment to that proviso as reported, so as to avoid any ambiguity and to make it read thus: "Provided, this section shall not apply to the excess of any indebtedness over such five per centum which has already been created or authorized by now existing law to be created."

Section 10 reads as follows:

"Section 10—No city, town or other municipal corporation shall become indebted in an amount exceeding five per centum of the taxable value of the property thereof; provided, that for the erection or purchase of water-works, gas or electric plants, or sanity sewerage an additional indebtedness not to exceed three per centum may be created; provided, further, that this section shall not apply to indebtedness in excess of such five per centum already created or authorized by law to be created."

These are all the changes recommended by the committee.

MR. SAMFORD—I desire to offer an amendment to Section 1.

THE PRESIDENT—The question is on the motion of the gentleman from Talladega.

MR. BROWNE—I withdraw that amendment.

THE PRESIDENT—Does the gentleman move that this Article be considered section by section?

MR. BROWNE—It was a special order that it should be considered section by section.

THE PRESIDENT — The clerk will read the first section and then the amendment of the delegate from Pike will be in order.

MR. GRANT—Before that is done, I desire to make a mo-

tion. There are only a few of the members, so far as I can find, that have this report before them. Three out of four around me have not go it. I want to move that the Secretary be directed to have this report printed.

MR. SAMFORD—I understand the report has been printed and distributed.

MR. GRANT—It has, but we can't get any and the Secretary has none.

MR. OATES—Has not the report been read?

THE PRESIDENT—Yes.

MR. OATES—Won't it be in the report of tomorrow?

THE PRESIDENT—It was read sometime since.

MR. OATES—Did not the gentleman from Talladega read it in his remarks?

THE PRESIDENT—No.

MR. OATES—I thought he had.

MR. GRANT—If I am not out of order, I have a resolution on the subject which another delegate has prepared.

The resolution was read as follows:

Resolved, That 500 copies of the articles accompanying reports made to this Convention by the standing committees shall be printed.

MR. SAMFORD—I had the floor on my amendment, and I didn't yield for any such purpose as that.

MR. GRANT—No, and I didn't offer that. I thought it referred to this matter.

A vote being taken the motion to print was lost, on a division 39 ayes and 50 noes.

THE PRESIDENT—The Secretary will read the first Section.

The Section was read as follows:

Section 1. All taxes levied on property in this State shall be assessed in exact proportion to the value of such property, but no tax shall be assessed upon any debt for rent or hire of real or personal property while owned by the landlord or hirer during the current year of such rental or hire and when such real or personal property is assessed at its full value; Provided, however, the General Assembly may levy a poll tax, not to exceed $1.50 on

each poll, which shall be applied exclusively in aid of the public school fund in the county so paying the same.

MR. SAMFORD—I desire to offer an amendment.

The amendment was read as follows:

Add in fifth line of Section 1 after the word "value," "and no license or other tax shall ever be imposed for the inspection of any article of merchandise used for fertilizer."

MR. SAMFORD—As every man in this Convention know there has been for a number of years in this State a special tax placed upon a commodity used entirely by the farmers of this State for the ostensible purpose of inspection of fertilizers. Everybody who is at all conversant with the workings of this law knows that the tax imposed is largely in excess of the amount necessary for such inspection of fertilizer. This is a special tax imposed upon the farming classes of the State, a tax which I contend is unwarranted.

It is not my purpose in offering this amendment to antagonize anybody or any class, but I do it for the avowed purpose of taking off of the poorest class of our citizenship a tax which is entirely unnecessary for their protection. In my county and in my section every man who engages in the business of farming is required to pay to the State of Alabama 50 cents per ton on every ton of fertilizer that he uses in his farming operations. This tax is imposed by the General Assembly of this State under the make-believe that it is for the protection of the farmers of this State by way of inspection for his fertilizer.

Upon a close examination into this subject those of you who desire more information upon the matter will ascertain that the actual cost of the inspection of these fertilizers does not exceed 10 cents per ton. Why is it then, Mr. President, that this State and the Legislature of this State should be permitted to impose upon the farmers of this State a tax which is in reality not for the benefit but is a burden to them. We have in the report from the Committee on Executive Department made the Commissioner of Agriculture and Industries an executive officer and as an executive officer of this State his salary should be paid by general appropriation just as the salaries of other State officers are paid. If his office is necessary for the protection of a large class of the citizens of this State, then the funds necessary for the maintenance of his department ought to be provided for out of the general Treasury of the State, and not by any special tax. If I understand it, there is no other class of citizens in the State of Alabama who are specially taxed for the purpose of benefiting themselves.

MR. WHITE—Except the railroads.

MR. SAMFORD—Yes, but we are going to try to keep them from being taxed hereafter for their special benefit. That being the case I ask you as fair men, as high-minded men, who are here attempting to do equal justice to every class of citizens, why should the farmers of Alabama be taxed 50 cents a ton on his fertilizer in order to maintain a department which they say is for his protection, and especially so in fact that only one-fifth of the amount goes towards maintaining the Department of Agriculture. There is no reason for it, and there can be no other explanation for it than the fact that there are certain institutions that have grown up over the State at the expense of the farmer, and are now being maintained by a tax upon the very men who need the protection most.

MR. JACKSON—I would ask you what part of that tax goes to the Agricultural and Mechanical College?

MR. SAMFORD—I don't know. My information is $25,000 or $30,000, but that don't change the proposition, although I love the Agricultural and Mechanical College as well as any man in Alabama.

MR. JACKSON—I asked merely for information.

MR. SAMFORD—The gentleman from Barbour informs me that $37,500 goes towards the maintenance of the Agricultural school at Auburn, but that does not change the proposition. If the Agricultural and Mechanical College at Auburn needs maintenance and needs $37,500 for its maintenance, it is the duty of the legislature to appropriate it out of the general treasury and support that institution as other institutions are supported. If it is necessary for the maintenance of the civilization of this State that the agricultural high schools dotted all about over this State should be maintained, it is the duty of the legislature of the State to maintain them out of the general treasury of this State by general appropriation. Mr. President, if it is necessary that the fertilizers used by the poor farmers of this State should be taxed, let them be taxed because the State needs the tax, and not upon the subterfuge that the farmer needs the protection.

It cannot be claimed because the law imposing this tax requires that the manufacturer shall not add this 50 cents a ton into the price for the fertilizer that the consumer has to pay, that the consumer does not pay it. That 50 cents is in there. It is added in the cost as every wise business man adds all the cost of manufacture into the price at which he sells his goods. If I am engaged in the sale of clothing and I go to the market at New York and buy a thousand dollars worth of clothing and bring it to Alabama to sell and the legislature of Alabama says, Mr. Samford, before you can sell that thousand dollars worth of clothing you have brought from the markets you must pay the State of Alabama for the protection of the wearers of your cloth-

ing a $100 license, I would be a silly business man, indeed, if I failed to add the $100 into the cost of the clothing I intended to sell. If I am engaged in the manufacture of fertilizer and the cost of the fertilizer without the tax is $14 per ton and the State of Alabama says before you can sell this fertilizer you must pay me a tax of 50 cents per ton, I would be a foolish manufacturer, indeed, if I failed to add the 50 cents into the cost of the fertilizer.

A DELEGATE — Is it not a fact that there being some trouble in regard to collecting debts for fertilizers on account of this tax the manufacturer probably adds more than the 50 cents a ton to the price?

MR. SAMFORD—That may be true, but I am speaking of the logical result and the natural result.

MR. WHITE—Are you not contending vigorously against the theory of sound republican government, that the manufacturer pays the tariff and not the consumer?

MR. SAMFORD—I presume we of Alabama have long since been of the opinion that the man who wears the coat pays the price. That being the case, it occurs to me it is absolutely unnecessary for me to discuss this question further. I desire simply to place it before the Convention that if the farmers are to be taxed, tax them, but don't do it by a subterfuge. If the State of Alabama needs the 50 cents per ton for running expenses, then tax them the 50 cents per ton, but do it as taxes, and not under a pretext that it is for their own protection. If they need the protection they are entitled to it like any other class of citizenship. If we need inspectors of guano and fertilizers it becomes our duty to see to it that the farming classes are protected by having an inspector, and having that inspector paid out of the general treasury of the State. I know as a matter of fact that I am opposing the sentiment that has existed in the General Assembly for several years, but I trust that this Convention may see it in a different light to what it has been viewed by the different General Assemblies.

It is wrong that we continue to take this tax from one class and give it to others. It has been retained largely for the reason that the surplus, after paying the expenses of analysis of fertilizer goes to the cause of public education, to the agricultural schools which everybody who knows anything about them will agree with me amount to nothing more than local high schools all over the State. I was discussing this question in one of the rural neighborhoods in my Senatorial District, when I met an old farmer who worked every day between the plow-handles, a man, however, of the highest order of intelligence, in the precinct which has the honor of having been the home of my distinguished friend from Montgomery and I asked him "what benefit do the farmers

of Pike get from that 50 cents a ton they pay on fertilizer?" Nearly blind, with green goggles and red hair and whiskers, he said: "About once every five years we get a bulletin, and that is all." And yet Pike County is taxed $10,000 a year and don't get a dollar back.

MR. JACKSON—Is there a man in the State who can't get the bulletins by simply having his name placed on the list?

MR. SAMFORD—Yes, they can get them, but in the name of God, what good is the bulletin. It is like retaining the corn and sending the shucks to the farmer, to the man who pays the money.

MR. SOLLIE—Worse than that.

MR. DENT—If we don't adopt the amendment, is it not perfectly proper for the Legislature to do this at any session?

MR. SAMFORD—Yes; but I am reminded by that of what was said about raising the Governor's salary. If the Legislature has been waited on and asked again and again to give relief, and the jobbery that occurs after they get up here makes them lose sight of what they should do, I think this Constitution ought to be great and brave enough, if they think it is right that the farming class should be relieved of an iniquitous tax, to put it in the organic law and limit the right of the Legislature to place a license tax on this class of merchandise.

MR. WADDELL—It is strange to me that this cry has come up against this tax from a lawyer who resides in a city which has a few manufacturies of fertilizer. No cry has come up from the farmer of Alabama against this tax. In every Legislature which has attempted to amend this law or repeal it, the measure has been voted down by the farmers of that body.

I think I can read between the lines. This tax, as I understand it, goes to establish a department which inspects this fertilizer and prevents the manufacturers of the article from palming off a spurious article on the market. The farmers have never complained or objected to paying this tax. The analysis is given on each sack of the fertilizer and is, to a certain extent, a guaranty of the contents thereof.

MR. REYNOLDS—Why is it that the State Chemist would not analyze fertilizer without knowing first what kind it is, and who put it up and what the analysis on the sack is?

MR. WADDELL—I did not know that was a fact. I do not see, Mr. President, why this section should be amended in this regard. If the farmer don't object to pay the tax, certainly nobody else is affected by it. The gentleman says that the farmers of Pike County pay $10,000 tax a year. I expect it is the fertilizer

company that is in operation that pays that tax, and not the farmer.

MR. SAMFORD—I will state for the information of the gentleman that if you add the amount paid by the merchants and by the fertilizer companies in my county, it will amount to something like $20,000.

MR. WADDELL — I see no just reason for putting this amendment in the Constitution, and I hope it will not be done.

MR. WHITE—I do not know, since hearing the gentleman from Russell, whether I ought to say anything on this subject, because he seems to think that a lawyer ought not speak for a farmer.

But I think we are all interested in having taxation fair and equal, and I can see no difference between imposing a tax of fifty cents a ton on fertilizers that are used by farmers, and levying fifty cents a ton tax on iron ore and coal that go to make up pig iron.

MR. SAMFORD—They have no such tax.

MR. WHITE—No, and we wouldn't stand such a tax as that. Men engaged in the pig iron business are too enlightened and have too much at stake to submit to any such unequal taxation as that. It is the farmer, the individual farmer, who only pays a few dollars and has not enough involved to make up a lobby to come to the legislative halls and prevent the imposition of such a tax as that. Who pays this tax? If Democratic doctrine and Democratic theories mean anything, it is the man who consumes the fertilizer. The fertilizer factories at Troy don't pay the tax. The farmers of Alabama who use the fertilizer do it. If the factory did pay it, it is wrong because we have no right to tax the fertilizer factory any more than we have a right to tax an iron furnace.

MR. SAMFORD — Will the gentleman permit me to ask a question? Is it not a fact that the coal and iron miners have inspectors appointed for them?

MR. WHITE—Of course they have.

MR. SAMFORD—And paid by the State?

MR. WHITE—Yes; and their wages are regulated by the price of iron.

MR. GRAHAM (Talladega)—Do those inspectors inspect the products or the condition of the mines with reference to health and safety?

MR. WHITE—What difference does it make whether they inspect one or the other?

MR. BURNETT—Don't you think it necessary to have some expert to inspect the fertilizer to determine the value of the fertilizer so as to protect the farmer?

MR. WHITE—Possibly so. Do you think there ought to be an inspector to tell the value of coal and iron?

MR. BURNETT—But you can't see the value of a fertilizer like you can of iron or coal.

MR. WHITE—I expect the man who uses it would be the one who could tell about it.

MR. BURNETT—But if defective, it could only be discovered after the crop was ruined.

MR. WHITE—But he would have a next crop still ahead of that. But if the gentleman is right that fertilizer should be inspected, then it becomes the duty of the State of Alabama to make the inspection and not the manufacturer to do it. Every farmer in Alabama pays this unjust tax imposed on him in the same proportion and I am informed by the gentleman from Troy that we can get all the inspection they need at 10 cents a ton, but they pay 50 cents.

MR. LONG (Butler)—If the farmer, as you say, pays this 50 cents tax because the manufacturer adds it to the cost of manufacturing the article, why don't the farmer put it in on his price for his cotton?

MR. WHITE—Because the price of cotton is fixed at Liverpool and New York. (Applause.)—I wish the farmer had the opportunity to fix the price of his cotton, but the difficulty is that the price of the farmers' products is fixed in the great marts of the world and he has to sell at what he can get, and when he comes to buy anything, he has to pay the price at which the other man offers to sell.

They tell us, however, that they need it for the Agricultural and Mechanical College. Is it any more incumbent upon the farmers of Alabama to support that institution than it is on the other people of Alabama to support the University?

MR. HARRISON—Will the gentleman permit a question?

MR. WHITE—Yes sir.

MR. HARRISON—He says that this is to support the Agricultural College. Doesn't my friend know that institution only receives one-sixth of it, and it takes about that to pay the expenses?

MR. WHITE—Perhaps so.

MR. HARRISON—You will find that it is so.

MR. WHITE—I am answering the argument I understood was being made in the interest of this tax, that it went to maintain the Agricultural and Mechanical College.

MR. OATES—Will the gentleman allow a question?

MR. WHITE—Yes sir.

MR. OATES—Does the gentleman not know there are nine Agricultural Colleges in the State supported by this tax, one in each Congressional District?

MR. WHITE—I have no doubt that is true. There have been a number of gentlemen to me already, asking me not to oppose this measure, because they live in towns where these schools are situated. (Applause.) But, I ask, Mr. President, if there be nine Agricultural Schools in Alabama, maintained by this tax, does that make it any more just? Why are these schools maintained? Is it not for the uplifting and upbuilding of the people of Alabama. Is it not to improve the citizenship of Alabamians? If it is not, then they ought not to exist. And, if that is the purpose, then all the taxable property of Alabama should contribute equally to their support. I am glad to see these colleges in these towns, and I for one regret that we do not have one in every town in Alabama, but, Mr. President, I do not believe it is right to impose upon one class of our fellow citizens a tax for educational purposes that we do not impose upon every other class in Alabama. We want the farms in Alabama to become productive. We want the farmers in Alabama to become independent and prosperous. If we really desire that, then we ought to lift this unjust burden from off their shoulders. We want fertilizer factories in Alabama. We want cotton mills in Alabama, and iron furnaces all over the State where they can be, but, Mr. President, if we expect them to come to Alabama, and prosper, we must deal fairly and justly with all. I do not know how much it oppresses, nor do I care; it is not just the amount of the tax, but the fact that it is unjust, the fact that it is imposed upon them and is an unjust discrimination against them, as a class, that makes me rise to my feet and ask the adoption of the amendment of the gentleman from Pike.

MR. GREER (Calhoun)—Mr. President, as a farmer, I rise to endorse the remarks made by the gentleman from Jefferson, and also by the gentleman from Pike. As a farmer, from experience, Mr. President, I charge openly and boldly, without the fear of successful contradiction, that today, tomorrow, or at any time, I might send one, two, three or five hundred pounds of this fertilizer that is taxed, and I could not get it analyzed without giving the name and brand of the guano, analysis printed on the sack. Now then, Mr. President, why should we farmers be taxed—

MR. DENT—Will the gentleman allow a question?

MR. GREER—Just as many as the gentleman likes.

MR. DENT—When you send it for analysis, what is the difference between the analysis reported by the Chemist and the one sent up?

MR. GREER—We simply get back a statement that it comes up to analysis. That is the only explanation we get back.

MR. ASHCRAFT—I desire to ask the gentleman a question. Did you ever individually receive such a reply from the State Chemist?

MR. GREER—I have not—

MR. ASHCRAFT—Have you ever seen them?

MR. GREER—I have, yes, sir. And I want to say further, that the State Chemist himself, I am quite sure, will not deny what I have said, that when it has been sent, Mr. President, for analysis, word comes back that we will have to furnish, not, perhaps, in just so many words, but that we must furnish the brand of the fertilizer, and the analysis printed on the sack.

It is a well known fact, Mr. President and gentlemen of the Convention, that the manufacturer adds 50 cents a ton to the cost of the fertilizer, and the farmers who use the fertilizers have the tax to pay. Unfortunately for the farmer, gentlemen of the Convention, he cannot hide his property, and escape taxation as the gentlemen who own money and who own bonds, but our lands are there, and they are taxed for every dollar that they are worth, and we pay it without grumbling. Why should gentlemen say that we should have this protection, when we have never asked for it. Why should they say we should have this undue protection, when in the name of God and the farmers of Alabama, I tell you we do not want it. We say that it is an unjust discrimination against us, that it is an unjust imposition that taxes fertilizer 50 cents a ton which is taken from our hard earned dollars.

The gentleman from Lee informs us that only one-sixth of this amount goes to maintain the Agricultural Schools in Alabama. I care not whether it is one-sixth—

MR. HARRISON—Will the gentleman allow me to interrupt. I said about one-sixth went to the Agricultural and Mechanical College where the work of analyzing is done. I didn't say the other schools. They only receive about enough to pay them for what they do.

MR. GREER—I am glad the gentleman corrected me, for the simple reason that though it is one-sixth or one-tenth the principle is the same.

I want to say to you, as a farmer, and as a man who has followed agriculture for a living since he has lived in the great State of Alabama, that I have never received one five cents worth of benefit from the agricultural colleges in Alabama. I want to say to you that the 50 cents I pay as a tax on every ton of fertilizer I use every year I feel is collected from me unjustly and unwarrantedly. I want to say that the farmers of Alabama, all over the State, feel just as I do about it, and as a farmer want to ask the members of this Convention, to help them to vote for and pass the amendment offered by the gentleman from Pike, in support of the farmers, the hard-working farmers of Alabama.

Now, Mr. President, we do not object to the nine agricultural schools in Alabama. We are proud of them. We would not take from a single district the school that it has, but if the school is worthy and is meeting with success, then pay for it as you do for other schools, out of the general appropriations, and out of the funds which are collected from taxes generally, and then the farmers of Alabama will pay their full share to support and maintain the same. One question I would like to ask the gentlemen who support the agricultural schools in Alabama, and that is if they know how many plows it takes to run each of those schools, and how many men they turn out each year as scientific farmers?

MR. WHITE—I will ask the gentleman if he knows the price of fertilizer in Georgia, in comparison with this State?

MR. GREER (Calhoun)—I do not.

MR. WHITE—I have just been informed it is 40 cents a ton less in Georgia than in Alabama.

MR. GREER (Calhoun)—The question has been asked why the farmer does not fix the price of his cotton? The question was partly answered by the gentleman from Jefferson. I want to say the reason we do not fix the price of our cotton is because it is already fixed for us in Liverpool, and that we receive here what it is worth in Liverpool, less the cost of transportation, and less a considerable commission and middleman's profit.

Now, Mr. President, I did not intend to make an argument on this question. I hope, and I trust that the gentlemen of this Convention will relieve the farming classes of Alabama of this unjust discrimination. I believe that if the men who think they are the self-constituted guardians of this class of people will reflect a moment when we ask for bread, will not give us a stone. I think the farmers know what they want. I think as a plain practical farmer I know what I need, and I say Mr. President, that I do not need it. I do not want it, and the farmers of Alabama do not want this fifty-cent tax levied against every ton of fertilizer used in the State. We are told that the farmers in the Legislature voted down a proposition to take the fifty-cent tax off. I want

to ask the Convention when, in recent years at least, has there been a single time that the farmers have had a majority in the General Assembly, when we could have voted down such a proposition? I wish to ask if the gentleman realize how small is the percentage of farmers in this Convention? It is only a handful and we come and ask the lawyers, and we come and ask the business men, as business men, and as honest men, to help to relieve us of this burden—this unjust burden that we have borne for years.

Mr. President, the gentleman from Pike and the gentleman from Jefferson have both ably discussed these propositions. The gentleman from Jefferson frankly tells you that the coal men and the iron men would not stand such unjust legislation; that they would not stand such an unjust discrimination against them; but, unfortunately, the farmers of Alabama have not the power; they have not the might to rise up and say to the people of Alabama, You shall not discriminate against us. We come to you as law-abiding citizens, as tax-paying citizens, and ask you, in the name of the common people of Alabama, in the name of the farmers, who are the back-bone and sinew of the world, to relieve them of this unjust taxation. If you will but stop and think a moment, I believe you will do it.

I say again, we do not need an inspector. I say again that it is a farce, and it is impossible to get fertilizer analyzed without first writing the brand on the fertilizer, and also the analysis on the sack.

In conclusion, I want to say that we feel very grateful to the lawyers, and other members of this Convention, who are going around, and taking upon themselves the task of button-holing the members of this Convention now, in an endeavor to secure pledges against this amendment. The farmers of Alabama may feel grateful to those members; we note with pleasure how zealous they are, and yet I want to say to them, if they carry the proposition, we will go back, we will bear the burden, we will continue to bleed for awhile, but after awhile the time may come when the lawyers and others of the General Assembly may be in as hopeless a minority as the farmers are today, and then, as proclaimed by the gentleman from Jefferson, we may demand and secure our rights.

MR. WHITE—Will the gentleman allow a question?

MR. GREER (Calhoun)—Yes, sir.

MR. WHITE—I want to know if the inspection has improved the article any?

MR. GREER (Calhoun)—I am glad that my attention has been called to that. That is the point I was about to overlook. I want to say, as a farmer, that farmers give a note that reads

something like this: that the man who sells the guano, the merchant, is not responsible for the crop. He does not guarantee it. The guano is sold solely on the guaranteed analysis, without any guarantee as to the result of the fertilizer. If it pays, you are all right, you are that much in; if it does not pay you, and proves worthless, you pay for it and take your medicine. That is all there is in it. You have no help for it whatever. Those are the provisions in the notes we give for the fertilizer. They contain absolutely no guarantee.

And in answer to the gentleman, I want to say that the guano today is nothing compared to what it was twenty years ago. Where a hundred pounds, twenty years ago, would produce a given result, it takes from three to four hundred pounds today to produce a like result; and I want to say that I do not believe there is a farmer upon this floor who has experimented, and is really a farmer—I mean the farmer who depends upon his farm for a support—but will endorse all that I say, when I assert that guano today, under the fifty-cent a ton inspection tax, is a much inferior article to that we used to have without the fifty-cent inspection tax added.

Now, gentlemen, in conclusion, let me beg of you, in the name of a hard-working class of people in the State of Alabama, as a whole; a people who have been discriminated against in the past, let me beg of you in their name, to relieve us of this unjust taxation, and this burden, and in future years "our children's children will rise up and call you blessed."

MR. PALMER—Mr. President and gentlemen of this Convention: This is the first time I have been on my feet during the sitting of this Convention. I have not introduced an ordinance, nor a single resolution, nor have I opened my mouth in this Convention. Gentlemen, when you began this Convention, and started to call the roll, my name being well down on the list, before you got to my name, I was satisfied you had enough resolutions and ordinances to make a Constitution, and that there was no use to offer more. It was two days before you got to my name again, and when you got there, I then thought that you had enough for ten Constitutions, and so I have held my tongue, and have done nothing but vote, and always, under almost all circumstances, voting to sustain the committee's reports.

It seems to be the custom of this body, and it seems almost as bad in that respect as the lower House of Congress, that when a man gets on the floor you talk him down. I have said nothing to delay the work of this Convention, and if you are not interested in what I say, why just begin to talk and I will quit and get out of the way.

Now gentlemen, I am a farmer, although I go on crutches. I do nothing but farm, and thanks be to God, I make a good living

out of it. I have raised up and educated my children as well as any man in this State, although I go upon crutches. There has been a great deal said here by gentlemen about the fertilizer business. I am satisfied that there is not a man in this House but what is willing to do what is right, provided he knows what is right. Now in this State, since the war, all Southeastern and Southern Alabama has been brought into a state of cultivation. Before the war we used to throw out tens of thousands of bushels of seed around our seed houses, and the cattle would work them into the ground during the winter and they were not utilized. There were no oil mills in the country before the war, and all this was lost. We have now commenced to use commercial fertilizers and use them largely. It is human nature, just as soon as there is a great demand for any product, for people to begin to put a spurious article on the market for money. It is so with fertilizers.

There has been a great deal said here about our Agricultural Colleges, and the analysis of fertilizers by the State Chemist. I tell you, gentlemen, these fertilizers are analyzed, and the gentlemen who have preceded me are to a great degree mistaken in the charges that they have brought against the Agricultural College. If you will take a sample of fertilizer, or a sample of your soil, and send it to the State Chemist, while he has his class in the class room, it is a pleasure to him to analyze these things before the class, and he will do it.

Now if we take up agricultural chemistry and study it, we find that there are thirteen chemical elements that enter into plant life, and that nature has richly provided all these elements except three. We need nitrogen, we need potash, and we need phosphoric acid. We get the latter out of phosphate, the cheapest of all fertilizers. It is dug from beds in Florida and South Carolina, and it is the cheapest of all fertilizers. Next in cost is the nitrogenous manure. Cotton seed meal is the strongest that we have. The costliest is the potash, and I think the most of that comes from Germany, and if you get muriate of potash, it is very costly indeed, costing about $50 a ton. Unless you throw some protection around the farmer and see that the analysis of these fertilizers comes up to a certain standard of nitrogen and potash, (the phosphates are cheap, not much more than dirt, and a great deal of it I am sorry to say is nothing more than dirt), he is without means of protection. If you have these manures analyzed, why then he can tell what he is doing, because the principal ingredients as I have said, or the nitrogenous manure and potash.

Now there is one thing I desire to call to the attention of this Convention, and gentlemen I thank you from the bottom of my heart that you have quit talking, and that you are listening to an earnest old clod-hopper, that has done nothing but hop the clods all his life. We have in this State nine Agricultural Schools. I live within three or four miles of one of them. I have been in them

time and time again, and the schools are not doing all that the law making power intended that they should. There are nine of these schools and they are given enough money almost to run them, and they have a free tuition, but the boys who go there do not know that it is an Agricultural College. They do not perform one minute's manual labor. The farms are rented out, and I know this from observation, because I have been to the school time and again. Now if you will make these schools strictly agricultural schools; put a professor there that knows what agriculture in a scientific way is, and teach all the boys how to farm scientifically, the State will be blessed beyond measure. But if you do not do this, if you just run these schools as common high schools, it is a shame and a fraud on the State that nine schools should be supported at the expense of this State, which are doing no more good than any other high school in the State. That is my position, gentlemen. The Agricultural College is doing its duty, as far as it can, but gentlemen, if you would inform yourself, and know what an Agricultural School really is, just take a trip to Starkville, Mississippi. They have got there the best Agricultural College in the South. It was headed by Gen. Stephen D. Lee. He is gone from the presidency now, and I do not know how it is carried on since he left. The fault lies in the management of these schools. If we do make them agricultural schools, every boy who goes there will do two hours manual labor a day, but if he would do four hours work a day, every poor boy in the district would have a chance to go there and get his education, and pay his board, and it would not cost him a cent. That is the object of these schools, but we have missed it, and we do not carry it out. I would like to see the amendment carried, as it goes in the right direction, but I would like to see that change, and stop the appropriation to the agricultural schools unless they are agricultural schools indeed. That is my opinion as to that.

But as for the analysis of the fertilizers, that is all right, and if you cut that out, then the farmers of the State of Alabama will buy more dirt than they buy manure, as sure as you are born. The manufacturer will make the price of the dirt, and call it phosphate, nitrogen and potash. The farming class, as a mass, do not know what it is.

Now I would like to say something further, but I have talked enough—

Call of "go on, go on."

I have been a close student all my life, and tried to be perfect in what I did. There has been right sharp things said here about bulletins. There was a bulletin sent to me several years ago, that there was an experimental station at Uniontown. I think Mr. deGraffenreid lives close by—

MR. deGRAFFENREID—I live near there.

MR. PALMER—That bulletin read that they had taken an old worn out gulley, a prairie field, and had planted it in grapes, and they are making ten tons of grapes to the acre, and they were selling them at 10 cents a pound. That figured up right big to the acre, and I got on the cars and went to Uniontown to see about it. I got off of the cars and took a plank walk and walked to a hotel, and met an old man who was keeping it, I don't know his name, and asked him where the agricultural station was, and he hung his head and said: "agricultural station? Didn't know one was here; but there is a stable keeper here that knows everything, and I will send for the stable keeper and he will carry you to this agricultural farm station." Well the stable keeper came, a very communicative fellow, too, and nice fellow to talk to. I told him what I wanted, and what I had come for. He said he would carry me out. Now there was another thing said in that bulletin, which was that they had tile drained that farm, and the lands where the tiles were was producing fifty per cent. more grapes than the land that was not drained. That was a wonderful thing to the farmer, to increase the production fifty per cent. by laying tile drains. You lawyers, I suppose you all know the law, but from the way I hear you talk you do not know much about farming. (Applause.)

Well, I went over to see the farm. He had one grape vine tied up to a house that marks civilization in every family where you see it, and the ground is very rich there, and I found that he had counted the bunches of grapes on this vine, and I averaged it by estimating if you put the vines so many feet apart, and every vine was as good as that, there would be ten tons of grapes to the acre. (Loud applause.) I said then, show me the tiles, I have seen the grape vine behind this little house, but show me the tiling. He said, 'my dear sir, you are the first man in Alabama that has ever come here to make an inquiry about them; there is not a single one in working order; every one is filled up; they run up and down, and up and down, and we thought the water would seek its level and go out, but didn't know the dirt would get in there and stop it up." Well he was a young fellow, and I said what pay do you get for this thing, and he said sixteen hundred dollars a year and all that I can make on it. I thought it was a pretty good place to hide out a politician, and get him out of the way.

Now gentlemen, I am satisfied that you want to do what is right. We farmers do not object to paying the fifty cent tax, if you will take the money and put it into the common schools. There is where it should go, or to the agricultural schools, if they are strictly agricultural schools, but we need farmers that know something about scientific farming. I tell you my dear audience, gentlemen of the Convention, I do not know anything about parliamentary law and do not want to come to any more Conven-

tions, I am tired of it, but I will tell you gentlemen, that if you get the stumps out of your field, and get a disk plow and hitch three or four mules to that plow and break the land well in the subsoil, it will thrive, and if you will get harrows and cultivators and get the land clear of clods, you can put a white boy up on that cultivator and make him attend to a hundred acres of land. There is no use talking about the scarcity of labor, if you fix your land and go about it right.

Now when you buy a fertilizer, you want a fertilizer where you know what you are getting; you want a fertilizer that shows a certain percentage of nitrogen, which is the best fertilizer on sandy or any lands, and then you want so much phosphate, and so much of potash, and you have got the complete fertilizer, and if you want to, you can mix them yourself. I moved down in Washington County three years ago. A merchant lived just across the road from me. He was the agent of a fertilizer company, and he told me "you buy this, it will give the very best results, it will cost you $19.50 a ton." The phosphates will cost you twenty-two, all the merchants here know that; the potash will cost you fifty, and this was put at nineteen. It was very cheap. I put the stuff out, and then got some cotton seed meal and put some potash with it, and upon my word, if there is any truth in me at all, the manure that I bought mixed was nothing but dirt. It was no account, and the other showed fine results.

MR. SAMFORD—Will the gentleman permit a question?

MR. PALMER—Yes, sir.

MR. SAMFORD—You had to pay 50 cents per ton to have that dirt analyzed?

MR. PALMER—Yes, sir.

MR. SAMFORD—Under the present law?

MR. PALMER—No, I didn't send it there—

MR. SAMFORD—But you did pay the 50 cents a ton. It had a tag on it.

MR. PALMER—But what I am contending is this, we want it analyzed, but it does not cost any fifty cents a ton to do it. I believe a nickle a ton will pay the cost. But gentlemen, understand me, I do not object to the fifty cents, but after you get it out of us, put it where it will bring in some return. Put it into the common schools, or else make the agricultural schools indeed, what they ought to be.

MR. ROGERS (Sumter)—In speaking of what it costs, the State received this year in round numbers ninety-six thousand dollars from the sale of these fertilizer tags, and the expenses were

about seven thousand dollars, and about three thousand dollars was appropriated for fairs, and they converted into the treasury of this State about eighty-six thousand dollars.

MR. PALMER—Well, that is a heap of money; more than I ever expect to have.

MR. GREER—May I ask the gentleman a question?

MR. PALMER—Certainly.

MR. GREER—I will ask you if you know what it does cost to analyze this fertilizer?

MR. PALMER—No, I do not.

MR. GREER—I will state for your information. I have been talking to Mr. Adams, and he says that it actually costs about ten cents a ton.

He also suggests, and I want to correct that, that he thinks I am mistaken in regard to the analysis of fertilizers. That came from the Clerk of a Committee appointed by our club, and my remarks were based upon the result of inquiries made by said Committee. I do not want to do any one an injustice. However, the Clerk, Mr. Adams, agrees with me as to the cost of making the analysis.

MR. PALMER—Gentlemen, when you collect this tax, put it in the primary schools; put it where the children can reap some benefit and learn to read and write. Put it in the academies, unless your agricultural schools be made agricultural schools indeed. Every boy that goes through and gets free tuition ought to be made to do two hours work a day, and if he does four hours work a day, a poor boy can go through free and be educated. They do it at Starksville, and why cannot we do it? We can, and gentlemen, I spoke to two gentlemen, trustees of that school where I live, and I said gentlemen, we ought to make this an agricultural school, or withdraw the appropriation. They said, yes, you are right, but it is in our district, and let's get the money. I live within six miles of it, and can send my children to it, but I want the school to do what it should, or not make the appropriation.

Now, gentlemen, I thank you from the bottom of my heart that you have listened to me. It is my first speech, the first one I ever made in any Convention in my life. I have been as green as a gourd, and afraid to open my mouth, because I was afraid somebody would spring the "question" on me, and I don't know how many things you have got to shut a fellow up here. (Loud applause.)

MR. PEARCE—Mr. President and Gentlemen of the Convention, it is very embarrassing to me to attempt to make a speech on the present occasion, on this proposition, under the existing

circumstances. I am very peculiarly situated. I am from a County where there is one of these "guano schools" as I call them, and I am in the presence of ninety-six men who are learned in the law. I was raised at a time when school facilities were very poor and my language will be very poor, and consequently I am further embarrassed.

It has been insisted by the gentleman who has just preceded me, that if you tax the guano at all, you ought to put it into the public school fund. Well, I must confess that will be a milder piece of class legislation than the other, but it will still be class legislation. It would be asking the farmer to specially add to the school fund, after he has paid his taxes on his other property, but it would be milder and better than to put it into these guano schools. So far as the guano schools in different sections of the State—and excuse me for calling them "guano schools," because I not much of a man for big words anyhow, and there is too much of that other name and I cannot remember it all—the people in my county who go to that school and get the benefit, if any one gets any benefit, are not the people who pay the tax on the guano. They are usually the sons of men who are not farmers, or to a great extent they are, and they do not use any guano, and besides all of the farmers need their folks at home, and usually cannot patronize the schools. But we propose, and we come out and say as Democrats, that we are in favor of a government that stands for equal rights to every man and special favors to none. As I understand Democratic principles as promulgated by the Democratic party, that is what we represent. Now, sir, if to have equal rights to all in this country, and special favors to none, is to have the farmer taxed fifty cents a ton on the guano he uses, I do not want any equal rights in mine. I do not want them. It has been insisted on this floor, by some gentlemen, that the farmers have never complained of this tax. Well, I am here to tell you that they have complained of it, and I know what I am talking about, and I expect that the gentleman who makes the statement in all probability is a lawyer, and the farmer would not likely go to the lawyer and complain to him about his taxes, because the farmers expect the lawyers to hold office, and they would not expect him to go to the Legislature and relieve him from it.

It has been insisted here that it was very important to have a tax on guano, in order to protect the purity of it. In my judgment, and my judgment is made up from a long experience, it is entirely unnecessary for that. I am here to tell you that I sold and used guano for years and years before there ever was a tax on it, or any arrangements to have it inspected, and in my judgment, it was as good, or better, then than it is now. Why, it would be unreasonable to suppose a man would set up a factory to manufacture guano, and manufacture spurious goods and sell them to the people. How long would he last at it? You may as

well insist, as it has been insisted here on this floor by the gentleman from Pike, that the people who wear clothing should be taxed to pay an inspector to inspect the clothing, to see that it is of good quality, and well put together. It would be just as reasonable to have an inspector for the shoes that are worn in this country, and hats, and so on down the line, for everything that the people consume in this country. It would be just as reasonable, gentlemen, and you will see that it is all bosh, and my honest opinion now is, candidly expressed, that this whole thing is gotten up more to promote the interest of some little town or other than to promote the interest of the farmers of this country. If you will think it over, gentlemen, it is more to promote the interest of some neighborhood, or some town, than it is to promote the interest of the farmers in this State, or at least that is the way I look at it.

Now, gentlemen, I do not want to detain you longer. I have not been making any racket in this Convention, and I do not want to consume your valuable time. I have explained this thing in a reasonable, common-sense way, and have told you the facts. There are one or two—

MR. SAMFORD—I ask the gentleman to yield to me temporarily. I desire to make a motion that the rules be suspended, and that this Convention remain in session until this question is disposed of, or until this amendment is disposed of.

Upon a vote being taken, a division was called for, and the motion to suspend the rules was lost.

MR. FITTS—I move that we remain in session until the gentleman from Marion completes his argument.

The motion was carried.

MR. PEARCE—As I started to say, there is one or two more propositions I wanted to discuss in connection with this matter. It has been insisted to me, before I came here, and since I came, that the farmers did not have this tax to pay. Well, the reply I have to that is simply that if the farmers do not have to pay it, and it is right to impose the tax of fifty cents a ton on the manufacturer, there has been a greater mistake made, for they ought to have gotten fifty dollars a ton instead of fifty cents a ton, and had a school everywhere. That is my opinion about it, and you see that proposition will not hold good.

In conclusion, I want to tell you, gentlemen, that I know the working people; I know the little boys and the little girls in this country, and I have ridden over this country and seen them digging and delving to make cotton at five cents a pound to pay this guano tax, and I appeal to you, gentlemen, as I tell you, notwithstanding I am from a county which has one of these schools in

it, I appeal to you on both sides of this hall, when you vote on this proposition, for God's sake vote it down; it will be the most patriotic and the most sensible thing you ever did in your life. Stand up for your manhood; stand up for what is right; let it go which way it may. I thank you, gentlemen, for your attention.

THE PRESIDENT—Leaves of absence are requested for Mr. Cofer for today, and for Mr. Davis of Etowah for tomorrow.

After making the usual announcements, the Convention adjourned until 10 o'clock tomorrow morning.

Corrections.

In Mr. Pillan's remarks on Section 4 of Executive report, should read, "It (the Electoral Commission) made one ruling as to Florida and exactly the opposite as to Oregon."

TWENTY-NINTH DAY

MONTGOMERY, ALA.,

Tuesday, June 25, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and the proceedings were opened with prayer by the Rev. Mr. Elliott, as follows:

We thank Thee for the continued manifestation of Thy love; we thank Thee that Thy good hand has been over us during another night; that we are permitted to begin this day's work, enjoying a reasonable portion of health and strength. Our hearts swell with emotions of gratitude when we remember Thy goodness and kindness to us. When we take a retrospect of the past we can see many things that pall for an expression of gratitude from our hearts. And now, Oh Lord, as we begin this day's work we invoke the presence and power of the Holy Spirit. Grant our Father to bless this Convention. Bless every home represented here today. We pray that Thou wilt surround them with the very best of circumstances. Preserve the lives of those who are left behind. And now, Father, we pray Thee that everything that is done today may be for Thy glory and for the good of this State. These blessings we ask for Jesus' sake, Amen.

Upon a call of the roll 131 delegates responded.

LEAVES OF ABSENCE.

For Mr. NeSmith for today and tomorrow; Mr. Renfro for today; Mr. Cofer for yesterday and today; Mr. O'Neal (Lauderdale) for this morning's session; Mr. Maxwell for yesterday and today; Mr. Greer (Perry) for today.

The report of the Committee on Journal was read, stating that the Journal for the twenty-eighth day of the Convention was correct, and upon motion the report of the Committee was adopted.

MR. WHITE—I wish to call attention to an error in the stenographic report of yesterday. I was made to say 'are you not contending vigorously against the theory of sound republican government." I said "are you not contending against the well accepted doctrine of the Republican Party."

THE PRESIDENT—The stenographer will make the correction.

MR. GRAHAM (Talladega)—I desire to make an inquiry. Is there or not a special order for this morning for this hour, on a pending question?

THE PRESIDENT—The special order will not be taken up until it is reached in the regular order of business. The regular order now will be the call of the roll for the introduction of ordinances.

MR. DENT—I desire to have a correction made in the stenographic report of yesterday. I am put down as asking Mr. Samford "if we do not adopt the amendment, is it not perfectly proper for the Legislature to do this at any session?" I did not ask that question, and my recollection is that the gentleman from Lauderdale, Mr. Ashcraft, made the inquiry. I desire the correction made.

THE PRESIDENT—The stenographer will make the correction.

MR. BLACKWELL—I desire to have corrected a statement, "the result is whether it is desired or not, a mighty machine is built up by the appointment of the Governor to these terms." Instead of that it should be "during his term." Further down it says "ninety-one per cent of those appointed by the Governor, and I said ninety-nine per cent.

THE PRESIDENT—The Secretary will call the roll of delegates for the introduction of ordinances, etc.

MR. BULGER—I desire to offer a resolution.

Resolution No. 187 by Mr. Bulger:

Resolved, That the articles to be adopted by the Convention as a part of the constitution shall be taken up and considered by the Convention in the order in which they are reported by the committee to which they have been referred.

Referred to Committee on Rules.

MR. BROOKS—My name was called and I did not have time to answer, the clerk ran over so rapidly. I desire to yield my call to the gentleman from Lowndes.

Ordinance No. 398 by Mr. Rogers (Lowndes.)

Be it ordained by the people of Alabama in Convention assembled:

That Section 17 of Article XIV be amended as follows: The Legislature by general law shall have the right to charter savings banks with a capital stock of not less than (100,000) one hundred thousand dollars paid in cash. Officers of such institutions shall give bond to three trustees who shall be stockholders, but not officers. Said trustees shall have power to examine the affairs of the bank as often as they deem necessary, but not less than (3) three times a year.

Each stockholder shall be liable to creditors of the banks to an amount not exceeding three times, the par value of the stock held.

Referred to Committee on Banks and Banking.

MR. CARMICHAEL (Coffee)—I offer a resolution by request of the Committee on Printing, in regard to printing the journal.

Resolution 188, by Mr. Carmichael (Coffee.)

Be it resolved, That the Secretary of State is hereby authorized and instructed to contract for the printing and binding of 1,000 copies of the journal of the Convention;

Be it further resolved, That the printing and binding shall be done in the same manner and under the same law as that of the House and Senate Journal, and that the printing and binding shall be paid out of the State appropriation for printing and binding.

Referred to Committee on Schedule of Printing and Incident Expenses.

MR. COBB—I move a suspension of the rules, and the adoption of the resolution I send to the Clerk.

The resolution was read as follows:

Resolution 189, by Mr. Cobb:

All errors in the stenographic report will be privately called to the attention of the reporter who is directed to make necessary corrections.

Referred to Committee on Rules.

Upon a vote being taken, the convention refused to suspend the rules.

Resolution 190, by Mr. Jones (Wilcox.)

Resolved, That it is the sense of this convention, that no amendment should be proposed by any delegate to an article of the Constitution, as reported by Committee, when such amendment could be enacted into a law by the General Assembly of Alabama.

Referred to Committee on Rules.

Ordinance 399 by Mr. Kyle (by request.)

To provide for the formation or creation of private corporations in the State of Alabama.

First—Be it ordained by the people of Alabama, in Convention assembled, That after the ratification of this Constitution, no private corporation shall be organized or created in the State of Alabama, except in manner and form prescribed in the following sections, from 1 to 4 inclusive.

Section 1. Any person desiring to form a corporation shall file with the Secretary of State a petition setting out (a) name and location of proposed corporation, amount of proposed capital stock, number of shares of common and preferred stock, and value and character of same, amount to be issued, and amount to be reserved in treasury and proposed issue of bonds (b) name of corporators and their residence, (c) effects of corporations and franchise desired.

Sec. 2. Upon the filing of the petition and its approval by the Governor and Secretary of State, the Secretary of State shall issue to two or more of those interested, a commission to receive subscriptions to capital stock of proposed corporation, and when one-half of the capital stock is subscribed and a board of directors and officers of the corporations have been elected, a charter shall issue, signed by the Governor and Secretary of State and the corporation thus formed shall have all corporate rights, named in the petition, not in conflict with the laws in this State and the United States, but no right to take or condemn private property, without first making just compensation therefor, according to law, shall be conferred by any such charter.

Sec. 3. Before the issue of charter to any corporation organized as provided in preceding sections, there shall be paid as fees for organization, the following amounts for the use of the State: In no case, less than $25; on all corporations with capital stock of $10,000, and not more than $100,000, $100; on all above $100,000 and not to exceed $500,000, $500; on all above $500,000 and not to exceed $1,000,000, $1,000; and an additional fee of $750 for every million or fractional part of million added to the first million of capital stock.

Sec. 4. The General Assembly of the State shall have authority to impose on all corporations organized an annual license tax not to exceed three-fourths of the tax charged as charter tax.

Referred to Committee on Corporations.

Ordinance No. 400 by Mr. Thompson.

To provide for a tax on collateral inheritances.

Be it ordained by the people of Alabama in Convention assembled, That all estate, real, personal and mixed, money, public and private securities for money of every kind, passing from any person who may die, seized and possessed thereof, being in this State, or any part of such estate, or estates, money or securities, or interest therein, transferred by the interstate laws of this State or by will, deed, grant, bargain, gift or sales, made or intended to take effect in possession after the death of the grantor, devisor or donor, to any person or persons, bodies politic or corporate, in trust or otherwise other than to or for the use of the father, mother, husband, wife, children, or lineal descendants of the grantor, devisor, donor or intestate, shall be subject to a tax of two and a half per centum on every $100 of the clear value of such estate, money or securities. And the tax so collected shall be applied to the common schools.

Sec. 2. The General Assembly shall enact such laws as may be necessary to put into effect the provisions of the foregoing section.

Referred to Committee on Taxation.

Upon the call of the standing committees no business was forthcoming.

MR. SAMFORD—I rise to a point of inquiry.

THE PRESIDENT—The gentleman will state the question of inquiry.

MR. SAMFORD—I would like to know what would now be the regular order.

THE PRESIDENT—The regular order will be the next order of business, which would be the report of special committees.

There are none, and the next order would be unfinished business.

MR. SAMFORD—That would be the business we were engaged in on yesterday afternoon?

THE PRESIDENT—The business we were on was a special order, to come up under the head of special orders.

MR. SAMFORD—Are special orders considered. The business we have in hand is laid aside until—

THE PRESIDENT—The consideration of the special order.

MR. JONES (Montgomery)—The special order, Mr. President, was immediately after the reading of the journal. A matter of reconsideration.

THE PRESIDENT—In the opinion of the Chair this matter that was pending, the consideration of the report of the Committee on Taxation, would come up immediately after the special committees.

MR. SAMFORD—Then that would be in order now.

THE PRESIDENT—It seems to the Chair that it would be.

MR. JONES (Montgomery)—Mr. President, by a vote of the House on yesterday, the motion to reconsider the proposed additional section to the article reported by the Committee on Executive Department was made a special order for today, immediately after the approval of the journal, and I submit that this is in order after the regular call for the reports of committees.

THE PRESIDENT—If the gentleman desires to enter the motion the Chair will entertain it at this time.

MR. JONES (Montgomery)—I did make it on yesterday, but I now desire to move to reconsider the vote by which the proposed section 31, offered by the gentleman from Dallas was defeated.

MR. HEFLIN (Chambers)—I move to lay that motion on the table.

MR. JONES (Montgomery)—I had not yielded the floor.

THE PRESIDENT—The Chair will rule for the benefit of the gentleman from Pike, in the opinion of the Chair the special order referred to by the gentleman from Montgomery would have precedence of the consideration of the matter now pending on the report of the Committee on Taxation.

MR. SOLLIE—Does the Chair think it would have precedence when it was not called in order? If he had intended to insist upon that, it occurs to me that he should have called it to

the attention of the House when that order of business was reached, and try permitting it to go over, and other business to intervene between it and now, he waives the right to insist upon it.

THE PRESIDENT—The Chair does not think it amounts to a waiver. It is made a special order and the Chair should call it up without a motion.

Mr. Jackson sought recognition.

THE PRESIDENT—For what purpose does the gentleman rise?

MR. JACKSON—I would respectfully state to the Chair that the delegates back here where I am, cannot even find out what is before the House.

THE PRESIDENT—Delegates will please be in order. The Chair did not hear any disturbance of which the gentleman complains.

MR. JACKSON—I desire to state that the talking back here in the cloak room, unless the door is closed, does disturb the delegates back here. Perhaps it is not realized by the delegates who are nearer the Chair that we are disturbed, but it is a fact sir, that gentlemen talking back here in the cloak room does disturb the delegates sitting here around me.

THE PRESIDENT—The Chair will direct the doorkeeper to call the attention of the gentlemen in the cloak room that they are disturbing the delegates to such an extent that they are unable to hear the proceedings of the Convention.

The Gentleman from Montgomery.

MR. JONES (Montgomery)—Mr. President, I regret very much that by a mistake of my own, as to the result of the vote on yesterday, I inadvertently made a vote which defeated the section I favored I shall not trespass upon the patience of my friends—

MR. HARRISON—I desire to interrupt my friend, the chairman of the Committee, to ask that the section be read. It is not printed in the report.

MR. JONES—I will read it to the gentleman in the course of my remarks.

MR. HARRISON—That will answer.

MR. JONES—The section which was defeated, Mr. President, was that offered by the delegate from Dallas, and reads as follows:

Amend by adding as Section 31: In case any Sheriff or his deputy or any member of his posse be killed or permanently dis-

abled by discharging his duty in defending a prisoner in his charge, the General Assembly shall provide for the maintenance of those who are dependent upon the person killed or disabled.

The gentleman from Dallas told me on yesterday, I do not see him in his seat this morning, that he had drawn this hastily, and that the committee could offer a substitute if his views were carried out. At the proper time that substitute will be offered, but now on the motion to reconsider, I do not think it proper to go into a mere matter of phraseology.

I submit that after our decision on the other section of this article, if we vote down this proposed section that we put the State of Alabama fifty years backward in the march of civilization. We have said that prisoners should be defended and that there was a standard of honor in this State, that should make its protection worth something, to men whom it made helpless, when it took them into custody to try them for offenses against the laws. Now we only ask to add an effective help to the arm of the Sheriff. If we refuse to do it, it goes out to the world from this hall that we are simply playing with words; that we do not mean what we say.

I trust no member of this convention will ever be put in the unfortunate attitude, where, in a matter in which he has not a particle of feeling, he must confront his neighbors and his best friends, and it may be to kill them, because the law of the land demands that he should rally to the protection of the Sheriff. It is one of the most disagreeable duties that ever falls to the lot of man. It is one from which every man instinctively shrinks. At the risk of being charged with being egotistical—whether a man is egotistical or not he seldom knows—I want to illustrate my point by an incident that portrays more powerfully than any words of mine, what a drawback to the Sheriff and posse is the thought that if a man is killed in the discharge of his duty, and he is a poor man, that he may be buried at the expense of the county, and his family becomes dependent upon the charity of neighbors. I remember on one occasion being charged with a duty of this sort, and a handsome blue-eyed fellow, one of the manliest looking specimens I ever saw, faltered in his duty. In private I asked him why he did that. His manhood, his honor, and his name would have been eternally disgraced, if any eye but mine had seen him, when in a dark alley he skulked his duty. He said to me, I know it was wrong. I did not mind being hurt. I did not mind being killed, if I had to be killed; but I had an old widowed mother and two sisters, and I did not know what would become of them if I was hurt there. Their faces came before me as I was ordered on this duty, and it was dark and my courage failed me. That is the cause—not that I was unwilling to suffer wounds, and may be death, but I was unwilling to serve

the State that would send me out to death, and then not even pay my funeral expenses if I was killed.

Now if we put this duty, and we put it rightfully, on the Sheriff, we have laid a moral command on him. We have fixed a high standard for him. Then for God's sake, let us show that we are in earnest—that while the moral power of Alabama is behind the Sheriff, when he stands confronting a mob—that it is not an individual, not a mere Sheriff, but the State of Alabama, in all its majesty and power. I do not suppose there is a man here who has not in his veins the blood of some soldier, and there is not a civilized government on earth that does not think it is proper and wise, when a man dies and gives his life for it, to pay some attention to the wants of those whom he leaves behind him. I am not going to make a speech now. I am not going to trespass further on the patience of this House. I shall not say one word more than that this, that since this question has been brought up and afterwards laid upon the table it presents a great moral issue.

MR. BULGER—May I ask the gentleman a question?

MR. JONES (Montgomery)—I will answer in a minute. I will answer the gentleman now.

MR. BULGER—Would you mind reading the substitute that you propose to offer for the amendment offered by the gentleman from Dallas, provided this question is reconsidered?

MR. JONES (Montgomery)—Yes, I will read it with great pleasure; but I thought it was not entirely in order to be discussing the substitute before the House had reconsidered. It would read this way: It shall be the duty of the General Assembly to make adequate provision for the dependent family of any Sheriff, deputy or member of any posse, who may be killed, or permanently injured, while defending from mob violence any prisoner in jail, or in the custody of the law.

Now, when I was interrupted, Mr. President, I was about to say that the action of this House is upon a question of great moral significance. If you vote this amendment down, after it has been offered, the world will rightly understand that Alabama hardly means what it says when it directs that prisoners be defended at all hazards, and I was about to add one word, in lines which are familiar to most of us,

"Whether on scaffold high,

Or on the battle's van,

The fittest place where man can die

Is where he dies for man."

I do not want that sentiment voted down. I do not want the State to say that it will fail to reward such men.

MR. MARTIN (Calhoun)—It has seemed to this convention in its wisdom that the government under such circumstances can institute impeachment proceedings against a sheriff of the State of Alabama. Whether this is a wise or unwise provision is not a question for discussion now. It is a part of your proposed fundamental law. The amendment now proposed says, that if a sheriff of the State of Alabama lays down his life in defending a prisoner, in defending those in the custody of the law, that the State of Alabama will provide for those that look to him for support and protection. I most heartily favor this amendment. It is eminently just, it is eminently right. If the great State of Alabama says to one of her faithful officers, place yourself in front of that prisoner, defend his life as you would defend your own, defend his person as you would defend your own—with the same breath that great State should declare if you go down to death in that undertaking, in vindicating my law, I will see to it that your wife and your children do not suffer, I will provide for them. I say again, it is eminently proper. It is wrong to mob a man, mob-law won't do. A man is arrested, the great law that lays its hands upon him says, you are in my custody, and a hair of your head shall not be hurt until you have a fair trial, an impartial trial by a jury of the land. You put shackles upon his hands and upon his legs, and you place him in the custody of the law, and under the control of your officer, then gentlemen, if a band of men what you call a mob forms to release him from that officer, to take him when he is helpless, try him without court and without jury, without law and without evidence and punish him without delay and without mercy. It is wrong, and every time it is done it is proclaimed to the world that there is a power in this land greater than the law itself. Now Mr. President, it has been my fortune to know a great many sheriffs of the State of Alabama. I have known them long, I have known them well, I have known them from the blue mountains of Clay and Cleburne to the waters of the Tennessee. I declare today that a braver or a more self-sacrificing, more earnest band of officers exist not in this land than the sheriffs of the State of Alabama. They are nearly all men of families, they are poor men with few exceptions. They are dependent for their own support and the support of their families upon their labor, upon the sweat of their brows. They do not belong to that class of citizens who accumulate money and build up fortunes, open-handed and generous they have a large circle of friends and great influence in their respective counties. Now gentlemen, if these men ever at times seem to falter in the presence of an infuriated and determined mob, it is not from cowardice, it is not from personal fear of death, it is not from dread of physical suffering or pain, but that same noble, generous, warm-heart

that gives the great influence in their neighborhood and in their counties asserts itself in the presence of that mob and instinctively the thought arises in their minds: "if my life is lost here, who will provide for my wife and my children?" That thought, gentlemen of the convention, unnerves the arm, undermines the firm resolve, and is calculated to cause him to adopt more readily the argument "my resistance will accomplish nothing anyway." But let the State of Alabama come to him and say in its great Constitution, we command you to defend that prisoner and vindicate the majesty of the law, and if you die we will provide for your family. Say that, and gentlemen the next man that is taken from the custody of the law and put to death by mob violence in all probability will be followed by two funerals, one will be that of the unfortunate and may be miserable victim, the other will be that of a brave sheriff who died in the discharge of his duty. I say it will stimulate the officers to the discharge of duty, and it will strike terror to the bosom and to the heart of the mob. Proclaim it, let us pass it, and when you say to the world that you demand the life of your sheriff in the vindication of the law, side by side with it let there be the proud declaration that the great State of Alabama will stand by his wife and his orphaned children, when he is gone.

MR. HEFLIN (Chambers)—I differ with the gentleman who have spoken on this question, who favor putting a premium on the discharge of official duty. I have not known of any instance in the State of Alabama where any man has been coerced into a race for sheriff. I have known of no force that the people have employed to bring out a candidate for that particular office. The office is open to any aspiring citizen of the State. The man who aspires to that office knows its solemn duties, he takes that mantle upon his own shoulder when he does it, he does it as any other citizen assumes the duty of any other office. I am opposed to setting apart a salary for the sheriff to discharge his duty and then to say if you do it we will give you this—

MR. WHITE—May I ask the gentleman a question?

THE PRESIDENT—Will the gentleman permit himself to be interrupted?

MR. HEFLIN—Certainly.

MR. WHITE—When a man is summoned on a posse to go with a sheriff as I understand, the benefits are extended to him as well as to the sheriff. What is your answer to that?

MR. HEFLIN—I think Mr. President, in a case like that it is the duty of any citizen of Alabama to go out and lose his life if need be to uphold the law and to save the life of a fellow citizen. Why, Mr. President, we say to the sheriff you shall have so much in fees, so much money will come to you in the office of

sheriff, now here is a man that the mob seeks, he is in your custody, you hold this office of your own accord, it was a matter of choice with you, you get pay for your services, we say to you back yourself against that jail door, and if you get shot down we are going to give your wife and children so much allowance a year. If you say that, why not say to the solicitor when he is prosecuting the son of a prominent man and stands between the State of Alabama and the jury, and is undertaking fearlessly to discharge his duty, and say to him that if the brother or father of this man shoots you in the back while making your speech to the jury, we will set aside an allowance—

MR. WHITE—Tell me how many solicitors have been shot in the back under circumstances of that sort?

MR. HEFLIN—I have not heard of any, I will say to the gentleman from Jefferson.

MR. BURNS—Will the gentleman allow me to ask a question?

MR. HEFLIN—I will ask the gentleman how many sheriffs he has known of being killed defending a prisoner from mobs?

MR. WHITE—We have never yet required them to do it until now, we have never required them to give up their lives or office in the discharge of their duty.

MR. BURNS—I would like to ask the gentleman if he ever knew of a solicitor being shot in the back for his speech in the court house?

MR. HEFLIN—No sir but I have heard criticisms upon solicitors about discharging their duty. You might just as well go to the circuit court to the judge and say to him when prominent families are before the court that the Circuit Judge can charge the jury fearlessly and if anybody attacks you, we will pay for the attacks made.

MR. BURNS—Did you ever hear of a mob attacking a judge?

MR. HEFLIN—I will state to my friend that I never heard of that either, Mr. President, but I am supposing cases, I am undertaking to answer the arguments of the gentleman, which I do not consider much argument. I have never heard, Mr. President, of anything of this sort being done. Why say to the sheriff here is an office that is open, here is a salary attached to it, you are a citizen of this country, you can aspire to that office, as you can to the office of probate judge, you take your choice. Here is a man who has committed an outrageous crime, he is in your custody back yourself against that jail door and let the howling mob destroy you, and if you are killed in the discharge of your duty, the General Assembly of Alabama will set aside a pension for your

offspring for the years to come. For what? For doing your duty. Mr. President, it is right for the sheriff to stand there and defend the prisoner, and a manly man will do it. It is nothing short of his duty, it is right without a premium, and right is right and God is God. There is no use for this Convention to set apart here a pension for the discharge of duty on these lines, and it will not set well upon the Constitution of the sovereign citizens of Alabama. If you are going to do that say to the solicitor we are going to reward you, here is Bill Jones's son over here a prominent man who killed a boy the other day. When you come to prosecute him and discharge your duty take off your gloves and handle him fearlessly before the jury, his brothers are blood-thirsty fellows, if they shoot you down in the discharge of your duty while making your speech the General Assembly will provide for your offspring, and we will set apart an amount to see that they are well taken care of. Now we will go to one of these little negroes stuck back in the jail. Why it will put the price of negroes above that before the war, it makes the negro more precious in the stand point of dollars and dimes than he was away back yonder in the good old days of slavery.

MR. BURNS—May I ask the gentleman a question?

MR. HEFLIN—Certainly.

MR. BURNS—Do you realize that there is a difference between a brother of a fellow who commits a crime, and a mob. This article refers to a mob.

MR. HEFLIN—I will suggest to my friend the fellow's brother might be in the mob, or in the courthouse, I don't know where he might be. It has been suggested to me there are no new duties imposed upon the sheriff—none. The duties of the sheriff today under this provision are as they have been in the days that are gone. I want to say in behalf of the men who fill the office of sheriff in Alabama, they do not need any premium to make them discharge their duty. They are men—specimens as a rule of noble, chivalric manhood, you don't have to hold out dollars and dimes to have them discharge their duty when they are standing facing the howling mob, they do not need the clank of dollars and dimes to nerve them to do their duty, they don't need it, they don't ask it, I have heard no clamor for that. I am opposed to reconsideration, I am opposed to telling the General Assembly to set apart from time to time pensions for Sheriffs and their posses in the discharge of their duty.

MR. BURNS—Have we ever required the Solicitors to give up their lives?

MR. HEFLIN—No.

MR. BURNS—We have as to the Sheriffs.

MR. SOLLIE—It comes about that in the latter part of this article I am in opposition to the committee in well nigh all its contentions. Again I opposed the reconsideration, the purpose of it being that expressed by the chairman of the committee. I was opposed to the provisions of that Section. I thought it unwise at that time and so expressed myself to the Convention. I think the amendment contemplated to follow this suspension of the rules well illustrates the unwisdom of the original section. It is like a proposition in geometry, you lay down a false principle in mathematics and put it to working as you would turn a crank and it grinds out false and erroneous results always or if you lay down a proposition in logic with either of the premises false or fallacious wherever you seek to draw a conclusion from it that conclusion is always wrong. My contention before the Convention was that it was wrong, for this Convention to get out of the sphere of constitution making and get after the Sheriffs of Alabama with stringent and far-reaching laws such as appear in that section. Now let us see what follows that law. We have a provision proposed before the Convention which when the moral of it is applied certainly smacks of paternalism. Let us see what is involved in all this. First, the Sheriff's family are to be provided for, and then the posse's families are to be provided for. The Chairman of the Committee gave as an instance illustrating why those families ought to be provided for, the instance of a certain policeman and his mother and sister.

MR. JONES—Was a member of the State troops.

MR. SOLLIE—I misunderstood the gentleman. The mother and sister of this trooper rose up between him and his duty. Therefore it is contended that the maintenance of the mother and sister should be provided for by the State that they may stand aside from his pathway. The gentleman is unfortunate in his illustration. It shows how far the word family may go. We have a law requiring a man to support those collateral members of his kin that are immediately near to him; we have certain criminal punishments and penalties following a failure to support them. The family of the Sheriff is expressed in broad language and the family may be prolific, he may be one of fifteen children, and he may have fifteen, and perhaps has a father and mother, and here is turned loose almost a brigade of persons for the State of Alabama to support. Perhaps he has called in a posse of 100 persons, and twenty of them may be wounded, and they each bring in as many other persons for the State of Alabama to support, all included in the language of this amendment. Mr. President, there is no provision that the families of policemen who die in the discharge of their duties shall be looked after; and they outnumber by far the Sheriffs of Alabama. If it is fair to protect the sheriffs it is fair to protect policemen and it cannot change the question

of moral right involved in the proposition that in one case you put the Sheriffs into a straight jacket and in the other—

MR. BURNS—Is there any ordinance saying anything about policemen?

MR. SOLLIE—There is not, and I was coming to that very proposition and attempting to explain it. The law says that the Sheriff must discharge his duty; he does it, and dies, and his family are to be protected. The law requires that the policeman shall do so, that the marshals shall do so, and the same moral obligations rests upon each and every one of them that rests upon the Sheriff.

MR. SPEARS (St. Clair)—Allow me to ask you a question.

MR. SOLLIE—Certainly.

MR. SPEARS—Do you believe it is right for the government to pension a volunteer soldier who has been disabled in battle defending his country?

MR. SOLLIE—I cannot see that that is so germane to the question, Mr. President. (Laughter.) And yet I do not object to their being pensioned.

MR. SPEAR—I would like to ask the gentleman another question. Will the gentleman permit me to ask another question?

MR. SOLLIE—Certainly.

MR. SPEARS—Do you believe it is right for the government to pension the wife and children of a volunteer soldier who has laid down his life in defense of his country?

MR. SOLLIE—I see no objection to that, Mr. President.

MR. SPEARS—Well then, another question?

MR. SOLLIE—All you wish to ask.

MR. SPEARS—Can you tell what difference there is in principle in the practice of pensioning a soldier and the practice of pensioning a Sheriff under the Constitution that we are about to frame?

MR. SOLLIE—Yes, sir, it will give me great pleasure to give my reasons for opposing the proposition notwithstanding I recognize the justness of pensioning soldiers and the wives of soldiers. Mr. President, we have our militia, there devolves upon them certain duties. There are a large number of them, we never know when they are going to be called into active duty, they come in along with the class with policemen and the other persons called upon to discharge executive duties, which makes them forfeit their lives in the discharge of duty.

MR. JONES—Will you permit me to ask a question?

MR. SOLLIE—I would be glad to answer one question at a time.

MR. JONES—I did not know anybody was asking you one now.

MR. SOLLIE—Mr. Spears asked me about five questions and I was answering them. If along a different line you may put it in, and I will answer them all together.

MR. JONES—Never mind.

MR. SOLLIE—I was proceeding to answer the several successive questions of the gentleman. The soldiers come in the list of persons who have to discharge these duties that are dangerous and that may lead to loss of life. Policemen may have to do it, citizens all over the State may have to do it. Now this constitutional provision proposes to single out from the total number the sheriffs of the State and while the counties remain as they are, only sixty-six in number, and the accidental posses who may be summoned and leave all the others unprovided for in the Constitution. We are here to make a Constitution, not to legislate. There are shown up already in our proceedings two propositions from which I dissent and which, in my judgment are open to grave and serious criticism.

One is that there seems to be an inordinate desire at this point and at that among the members of this Convention to cause the Convention to reach its hands down into the pockets of the people of Alabama and make disbursements or direct disbursement. According to my observation the Legislature of Alabama is sufficiently prone to squander money and—

MR. ROGERS (Sumter)—Will the gentleman permit me to interrupt him?

MR. SOLLIE—Certainly.

MR. ROGERS—I would like to suggest to you this thought: Can't the legislature if it desires to do so, already under the present law, pension the Sheriff if they want to?

MR. SOLLIE—Of course.

MR. ROGERS—And why the necessity for putting a Constitutional provision?

MR. SOLLIE—Exactly, sir. You have my idea precisely. Mr. President, members are prone to find this and that pretext as an excuse for reaching their hands into the State Treasury and disbursing the money which should be kept there to defray the legitimate expenses of State.

Then the other tendency is to get away from the object of making a Constitution and to go into legislating for this and that individual and for this individual enterprise and for that individual enterprise until if these ideas shall obtain in all their length and breadth of proportion our Constitution will be greater than the statute laws compiled by Napoleon, greater than the statutes of Alabama, until a man who wants to read our Constitution must devote months to it. I say these two tendencies in this Convention to load down the Constitution with appropriations and with legislation constitute a grave and serious error which will call in question before the critical eye of the world, the common sense of this Convention. It will subject us to the gravest criticisms, before the enlightened world. Why should the Alabama Constitutional Convention, made up of lawyers and bankers and men supposed to be wise and intelligent, subject itself to criticism of this character.

If we are going to pension the Sheriffs and their posses and going to pension them in the Constitution, let us pension all men who may probably go into a like situation and who stand in the same category. Would not that be fair and just. Let us pension policemen who lose their lives, let us pension the soldiers who lose their lives, and not adopt the policy that the legislature may do the pensioning, but that we, the Constitutional Convention of Alabama, all powerful will usurp the legislative functions and go on and pass the laws or put peremptory mandates in the Constitution that the legislature shall pass them. I say that is a false policy. If it is well that the Sheriffs should be pensioned, let the legislature pension them. I repeat that whenever an appeal of this kind has been made, the legislatures have been ready enough to respond to it. We need not fear anything on that score.

Now, I do not know that I care to pursue this question further. I have about covered the grounds of my objections, and I respectfully submit to the Convention that we may well leave this matter to the legislature without saying anything about it in the Constitution.

The suggestion of life insurance for sheriffs is made by some gentlemen of the Convention, but I don't know how pertinent that is.

MR. BURNS—I move that it be laid upon the table.

MR. MORRISETTE—I move the previous question.

MR. SOLLIE—I rise to a point of order, that a motion to table—

THE PRESIDENT—Does the gentleman withdraw the demand for the previous question?

The Convention expressed dissent.

The previous question ordered.

MR. JONES (Montgomery)—Mr. President I send up to the clerk's a substitute which at the proper time I wish to offer. I regret exceedingly that there seems to be so much impatience upon the part of some of our friends, to hear discussion on a great matter upon which Alabama may be well misunderstood by the civilized world if, after this proposition has been made we shall vote it down or put it upon the table. It has been asked, cannot the legislature do this? Yes, it could, but the language of the substitute which will be offered presently, and the language of the original resolution was mandatory. Why, the gentleman says, that it smacks of paternalism. Good God, Mr. President, was it ever before heard that when a State protects a man who dies in its service, that it is reaching up in the realms of paternalism?

What is it when you tax the people to educate the poor children of the State? In a sense it is paternalism, but thank God the people of Alabama have quit being scared at names, and if that is "paternalism," they are for it. What is it when you tax people to buy libraries? Why is it that the State enters into manifold functions that it did not in former days? It is because as ages advance and conditions multiply governments do what in former days and times it did not do, and what they then called paternalism. Some of our friends, who opposed this amendment, try to load it down with the argument that because we did not provide for all cases, therefore we should provide for none. What is the Sheriff? The highest constitutional officer in the county. We have laid upon him a command. He is the subject of peculiar attacks, attacks of mob violence when he is defending a prisoner. No other constitutional officer in the State is charged to the same extent with that same high duty, and none, therefore, so prominent a target for attack as the Sheriff. Is it any answer to say, I won't vote to protect this man, because you do not vote to protect everybody else? I submit not, Mr. President. But it is said he is a volunteer, that he runs for office.

MR. BURNETT—Will you allow me to ask a question.

MR. JONES—I will when I get through, I will answer any question on earth, but I don't care to be interrupted now.

They say he is a volunteer, and he has only discharged his duty. That proposition pushed to its logical sequence is that neither the State nor anyone else ought to reward a man simply for discharging his duty, no matter what that duty is. Is that the practice of civilization? Is it the feeling in our hearts. Haven't you seen regiment after regiment march out in defense of their country, cheered by the women, with tears streaming down their faces, followed by the prayers of the good. Haven't

you seen them when they came back—those who survived—honored, taken up by their fellow citizens, given places of prominence, and what for? Because they had discharged their duty well and faithfully. My friend on my right asked the gentleman on my left what was the difference in principle between pensioning a volunteer soldier and pensioning a volunteer sheriff, and he made the best answer that he could, that it did not seem to him applicable. It was applicable, it couldn't be answered. Now, Mr. President, what is the practical trouble about this proposition—how many sheriffs do gentlemen expect to be killed when they talk about this magnificent pension roll. We hope there may not be any, but the moment it becomes known that the jail is a sanctuary you will not find it attacked, and no sheriffs will be killed. The State troops, on many occasions, have confronted a mob, and mobs never fired on them, because they knew they would be killed. They never will attack the jail when they know that to go there means death. The moment that the law of Alabama makes a jail a sanctuary for a man who is there to receive justice—whether it be death or liberty—you will find that while mobs in the hue and cry may swing up a victim before he is in the hands of the officers of the law, that they will never touch a jail. So there will be no great pension bill. What is the objection to providing for the family of the member of a posse? He has not been guilty of the offense of volunteering. Take the dependent upon his daily wages, give him a musket, and put him in the jail and have him struck down and killed defending a prisoner. Is it not right for the State to care for his family. The answer is an epithet, that it is paternalism, not that it is wrong for the State of Alabama to pay any attention to his family. Mr. President, there was a greater than any in this hall, greater than any being ever on earth, who declared the principle which justifies this enactment and it was when the Divine Master said "Bear ye one another's burdens." Mr. President, I am done.

THE PRESIDENT—The question is on the motion to reconsider.

The ayes and noes were called for and the call was sustained.

The result of the roll call was as follows:

AYES

Almon,	Browne,	deGraffenreid,
Ashcraft,	Bulger,	Duke,
Banks,	Burnett,	Fletcher,
Barefield,	Burns,	Foshee,
Bartlett,	Byars,	Foster,
Beavers,	Case,	Freeman,
Beddow,	Carmichael, of Coffee,	Gilmore,
Blackwell,	Cornwall,	Graham, of Montgomery,
Brooks,	Cunningham,	Graham, of Talladega,

Grant,
Grayson,
Haley,
Hinson,
Hood,
Howell,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Kirkland,
Knight,
Kyle,
Leigh,
MacDonald,
McMillan (Baldwin),
McMillan, of Wilcox,
Malone,
Martin,
Maxwell,
Miller, of Marengo,
Morrisette,
Mulkey,
Murphree,
Norman,
Norwood,
O'Neill (Jefferson),
O'Rear,
Palmer,
Parker, of Cullman,
Pettus,
Porter,
Proctor,
Reese,
Reynolds, of Chilton,
Rogers, of Lowndes,
Sanford,
Searcy,
Selheimer,
Sloan,
Smith, Mac A.,
Sorrell,
Spears,
Tayloe,
Thompson,
Watts,
Weakley,
Weatherly,
White,
Whiteside,
Willet,
Williams, of Marengo,
Wilson, of Washington,
Winn,

TOTAL—82.

NOES

Messrs. President,
Altman,
Bethune,
Boone,
Cardon,
Carmichael, of Colbert,
Carnathon,
Chapman,
Cobb,
Coleman, of Walker,
Craig,
Davis, of DeKalb,
Dent,
Espy,
Ferguson,
Glover,
Greer, of Calhoun,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Howze,
Inge,
Jones, of Hale,
Kirk,
Locklin,
Lowe, of Lawrence,
Merrill,
Miller, of Wilcox,
Moody,
Oates,
Opp,
Parker, of Elmore,
Pearce,
Phillips,
Pillans,
Pitts,
Reynolds (Henry),
Robinson,
Rogers, of Sumter,
Samford,
Sanders,
Smith, of Mobile,
Sollie,
Spragins,
Stewart,
Waddell,
Walker,
Williams, of Barbour,

TOTAL—50.

ABSENT OR NOT VOTING

Cofer,
Coleman, of Greene,
Davis, of Etowah,
Eley,
Eyster,
Fitts,
Greer, of Perry,
Hodges,
King,
Ledbetter,
Lomax,
Long, of Butler,
Long, of Walker,
Lowe, of Jefferson,
NeSmith,
O'Neal, of Lauderdale,
Renfro,
Sentell,
Smith, Morgan M.,
Studdard,
Vaughan,
Wilson, of Clarke,
Williams, of Elmore,

So the motion to reconsider was carried.

MR. JONES (Montgomery)—I move the adoption of the substitute and on that I call for the previous question.

THE PRESIDENT—The delegate from Montgomery offers a substitute which the Secretary will read.

The substitute was read as follows: It shall be the duty of the General Assembly to make adequate provisions for the dependent members of the family of any sheriff, deputy sheriff, or member of any posse who may be killed or permanently injured in defending any prisoner in the custody of the law.

MR. HEFLIN (Chambers)—I move to lay the substitute on the table.

MR. JONES (Montgomery)—The previous question has been moved and the gentleman cannot cut that off by a motion to table.

THE PRESIDENT — The gentleman from Montgomery moved the previous question. Thereupon, the gentleman from Chambers moved to lay the substitute upon the table. Under our rules the motion to table would have precedence of the motion for the previous question.

MR. JONES—I do not want to take up time, but I want to submit this to the Chair—

MR. HEFLIN—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. HEFLIN (Chambers)—A motion to table is not debatable.

MR. JONES (Montgomery)—I am not debating any motion to table, but I am conferring with the Chair as to whether he is right on the point of order. Our rule says when the previous question is ordered you must immediately take a vote on the main question and that cannot be cut off by a motion to table.

THE PRESIDENT—The gentleman is entirely correct in that, but the gentleman is informed that the previous question has not been ordered and that this motion to table is made and it is an incidental question.

MR. JONES (Montgomery)—If the gentleman insists on that motion to table and not taking a vote on this proposition, I will demand the yeas and nays. I hope the friends of the measure will stand up for it—

MR. HEFLIN (Chambers)—I rise to a point of order. A motion to table is not debatable.

MR. COBB—If this motion to table is voted down will the substitute of the gentleman from Montgomery be amendable. If the amendment of the delegate from Montgomery is laid on the table it cannot be amended unless it is taken from the table.

MR. BULGER—If the motion to table is lost, will the pending question be previous question on the substitute of the gentleman from Montgomery?

THE PRESIDENT—The Chair thinks it would.

The call for the yeas and nays was sustained by the rising of a requisite number and the result of the roll call was as follows:

AYES

Messrs. President,
Altman,
Bethune,
Boone,
Cardon,
Carmichael, of Coffee,
Carnathan,
Chapman,
Coleman, of Walker,
Craig,
Davis, of DeKalb,
Dent,
Espy,
Ferguson,
Foshee,
Glover,
Greer, of Calhoun,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Howze,
Inge,
Jones, of Hale,
Kirk,
Lowe, of Lawrence,
Merrill,
Miller (Wilcox),
Moody,
Oates,
Opp,
Parker (Elmore),
Pearce,
Phillips,
Pitts,
Reynolds, of Henry,
Robinson,
Rogers (Sumter),
Sanders,
Smith (Mobile),
Sollie,
Spragins,
Vaughan,
Waddell,
Walker,
Williams (Barbour),
Wilson (Clarke),

TOTAL—48.

NOES

Ashcraft,
Almon,
Banks,
Barefield,
Bartlett,
Beavers,
Beddow,
Blackwell,
Brooks,
Bulger,
Burnett,
Burns,
Byars,
Carmichael, of Colbert,
Case,
Cobb,
Cornwall,
Cunningham,
deGraffenreid,
Duke,
Eyster,
Fletcher,
Foster,
Gilmore,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Grayson,
Haley,
Hinson,
Hood,
Howell,
Jackson,
Jenkins
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Kirkland,
Knight,

Kyle,	O'Neill, of Jefferson,	Smith, Mac. A.,
Leigh,	O'Rear,	Sorrell,
Locklin,	Palmer,	Spears,
Long, of Walker,	Parker (Cullman),	Tayloe,
Macdonald,	Pettus,	Thompson,
McMillan, of Baldwin,	Pillans,	Watts,
McMillan (Wilcox),	Porter,	Weakley,
Malone,	Proctor,	Weatherly,
Martin,	Reese,	White,
Miller (Marengo),	Reynolds (Chilton),	Whiteside,
Morrisette,	Rogers (Lowndes),	Willet,
Mulkey,	Sanford,	Williams (Marengo),
Murphree,	Searcy,	Wilson (Washington),
Norman,	Selheimer,	Winn.
Norwood,	Sloan,	

TOTAL—83.

ABSENT OR NOT VOTING

Browne,	Hodges,	Renfro,
Cofer,	King,	Samford,
Coleman, of Greene,	Ledbetter,	Sentell,
Davis, of Etowah,	Lomax,	Smith, Morgan M.
Eley,	Lowe, of Jefferson,	Stewart,
Fitts,	Maxwell,	Studdard,
Freeman,	NeSmith,	Williams (Elmore),
Greer, of Perry,	O'Neal (Lauderdale),	Long, of Butler.

During the roll call.

MR. COBB—I rise for information, in the nature of a parliamentary inquiry. I understand there are two propositions before the House, the proposition of the gentleman from Dallas and a substitution or amendment by the gentleman from Montgomery. If we lay the substitute of the gentleman from Montgomedy on the table, the question comes on the proposition of the gentleman from Dallas?

THE PRESIDENT—The gentleman from Macon is correct.

MR. COBB—I may vote for the motion of the gentleman from Montgomery now, that is vote for the substitute now and still vote against it afterwards, that then the question comes afterwards of whether we will accept it?

THE PRESIDENT—The question is on the motion to lay on the table the substitute.

MR. COBB—But my question is suppose that is voted down, will the motion then be, shall the substitute be adopted?

THE PRESIDENT—The question will be upon the demand for the previous question upon the adoption of the substitute.

The roll was continued, completed, and the result announced.

So the House refused to table the substitute.

MR. JONES—I move the adoption of the substitute and on that I call for the previous question.

MR. SOLLIE—Will the gentleman withdraw for a moment?

MR. JONES—No; I am sorry to say I cannot.

A vote being taken, on a division, resulted 84 ayes and 22 noes. So the previous question was ordered.

MR. CHAPMAN—I rise to a parliamentary inquiry.

THE PRESIDENT—The gentleman will state the inquiry.

MR. CHAPMAN — Does the action of the convention now place this in such a condition that no change or amendment can be made or proposed to the substitute?

THE PRESIDENT—The previous question has been ordered.

MR. CHAPMAN — It seems to me that some of that language is very objectionable and I would like to amend if the gentleman would permit it.

MR. JONES—I would like very much to do it, but we will never get through.

MR. CHAPMAN—I think we ought not to get through it in too much haste. This is a very serious matter.

MR. JONES—I rise to a point of order. I don't think the gentleman can argue against a vote already ordered except by unanimous consent.

THE PRESIDENT—The point of order is well taken.

MR. CHAPMAN — I ask unanimous consent to offer an amendment.

There was objection.

MR. GREER (Calhoun)—Does the adoption of this substitute of the gentleman from Montgomery mean that in future years the pension list of Alabama will be proportionately as large as that of the National Government.

The reading of the substitute was called for, and it was again read.

MR. SPEARS—I want to ask the gentleman from Montgomery a question: If I understand the reading of the substitute it makes no provision for the Sheriff in case he is disabled; it only makes provision for the family.

MR. JONES—The effect of the section, if adopted, is this:

That the dependent members of the family of any Sheriff or of any member of a posse who is killed may be provided for.

MR. SPEARS—But suppose the Sheriff is disabled, he is not dead, but cannot work, he is helpless; you have no provision for him.

MR. JONES (Montgomery) — None on earth. It provides for the dependent members of the family.

MR. BURNS—I want to say that I will withdraw my article in favor of the substitute.

THE PRESIDENT—The question is on the substitute offered by the gentleman from Montgomery to the amendment proposed by the gentleman from Dallas.

MR. ROGERS (Sumter)—And on that I call for the ayes and noes.

The call was not sustained, and a viva voce vote being taken, the substitute was adopted.

THE PRESIDENT—The question is now upon the original section proposed by the gentleman from Dallas, as amended.

MR. BURNS — I withdraw my amendment in favor of the substitute.

MR. COLEMAN (Greene) — I have been trying since I reached the hall to get into the merits of the question, and I would like to have the section read as amended.

MR. JONES (Montgomery)—I rise to a point of order. The gentleman from Dallas offered an original section to the article I moved a substitute for that which he accepted, and which the House has just passed, so that the substitute is not now before the House at all.

THE PRESIDENT—In the opinion of the Chair a substitute is but a form of amendment, and when offered, is acted upon by the Convention as an amendment, and when adopted the question recurs upon the adoption of the section as amended. The Chair will overrule the point of order.

MR. COBB—I offer an amendment.

THE PRESIDENT—The gentleman from Mason will send up his amendment.

The section proposed by the delegate from Dallas, as amended by the substitute, was again read.

MR. GRAHAM (Talladega)—I rise to a point of order. The section just read is the identical proposition that this Convention

adopted as a substitute, and my point of order is that it is too late to amend a proposition which has already been adopted, and the call for the previous question cuts off the other members from offering amendments.

MR. COBB—The previous question does not apply to the proceedings. The Chair has ruled both propositions are before the Convention. Now, I propose to amend the proposition of the gentleman from Montgomery.

MR. deGRAFFENREID — I rise to a point of order. The gentleman is out of order because the delegate from Greene has never yielded the floor.

THE PRESIDENT—In the opinion of the Chair, the point is well taken. The gentleman from Greene was recognized and has never yielded the floor.

MR. COLEMAN (Greene)—I regret very much not having heard and gotten the benefit of the discussion on this question, and I have hardly had time to mature in my mind what is right and proper or how this section should be framed. As it is, it seems to me there is no remedy at law; the parties cannot enforce any claim by any suit at law. It is left entirely to the discretion of the Legislature. That is the way the reading of the section strikes me. No remedy is given except such as the Legislature in the exercise of good judgment will give. They fix the compensation. How the Legislature is to arrive at proper compensation except by taking testimony of witnesses, how it is to take the testimony of witnesses of course would depend altogether upon legislation hereafter to be provided by the Legislature. The whole thing is a matter of legislation. If it is the desire of the Convention to make compensation in the cases mentioned, it seems to me the organic law ought not to go further than to say that compensation shall be made, and let the Legislature fix its own rules. There is no necessity really for any such provision in the organic law unless you see proper to assert it. I would like to hear this proposition discussed a little further before we come to a vote.

MR. COBB—I offer an amendment.

MR. GRAHAM (Talladega)—It was probably an oversight. But I rose to a point of order that the identical proposition has just been voted upon by the Convention, and there was no ruling upon the point of order. The point of order I make is this: As stated by the chairman of the committee, there was an original proposition. It was withdrawn by the mover by the unanimous consent of the Convention. Then the chairman of the committee offered this as a substitute. There was nothing before the Convention, but the substitute, and this Convention adopted the substitute. Therefore, there is nothing to amend until you reconsider

the vote by which this substitute was adopted. I ask for a ruling upon that point of order.

THE PRESIDENT—The Chair will state that the gentleman is mistaken in saying that the gentleman from Dallas asked unanimous consent to accept the substitute, and that it was accepted by unanimous consent. The original section as offered by the gentleman from Dallas was pending, and while it would have been perfectly competent for the gentleman from Dallas, had he obtained unanimous consent, to accept the substitute, and the question would have then been as if the substitute had been the original proposition. But that was not the course pursued. The question was submitted on the adoption of the substitute for the section as proposed by the gentleman from Dallas and as the Chair understands all the parliamentary authorities hold that a substitute is simply a different form of amendment, and when adopted it is adopted as an amendment and the question recurs on the section as amended. The scope of the amendment, the fact that it strikes out all or a small part or all but the enacting clause, or all but one syllable, it seems to the Chair does not change the principle. It is an amendment notwithstanding, and the question would recur upon the section as amended.

MR. GRAHAM (Talladega)—Suppose it strikes out everything, then what?

THE PRESIDENT—It seems to the Chair that the principle would be the same.

MR. GRAHAM (Talladega)—Did not the gentleman from Dallas ask to withdraw his original proposition and accept the substitute?

THE PRESIDENT—In the confusion incident to the consideration of the question the gentleman from Dallas walked up near to the gentleman from Montgomery and made some statement and a point of order was made against his right to debate and the Chair stated nothing at all to the Convention.

MR. JONES—I beg to remind the Chair that in the opening remarks of the Chairman of the committee, he stated that on yesterday his friend from Dallas in the hurry of preparation had not gotten the exact language that he wanted, and he authorized me to say he preferred the substitute I had drawn up. I stated that in my opening argument and the gentleman from Dallas will confirm it.

MR. PRESIDENT—If the gentleman made that statement, and the Chair has no doubt that he did, the Chair will overrule the point of order of the delegate from Talladega.

MR. COBB—To show that the gentleman from Montgomery was not understood, as he states it, I have been voting upon the

idea that both propositions were before this Convention. I am opposed to the whole of it, but I prefer the proposition of the gentleman from Montgomery to the proposition of the gentleman from Dallas. Now as to my amendment.

THE PRESIDENT—The gentleman will suspend until the amendment is read.

MR. CUNNINGHAM—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point.

MR. CUNNINGHAM — The Chair holds that the original proposition offered by the gentleman from Dallas is an amendment to the report of the Executive Committee. He further holds that the substitute offered by the Chairman of the committee is an amendment to the amendment offered by the gentleman from Dallas. I therefore make the point of order that further amendment is out of order.

THE PRESIDENT—That point of order would have been well taken had it been proposed before the amendment of the gentleman from Montgomery was adopted. But after the adoption of the amendment the Chair understands the section is still open to further amendment. If an amendment is adopted to a section, that does not cut off further amendment.

MR. BURNS—I rise to a question of inquiry. Did or did not the distinguished Chairman of that committee move the adoption of the section as amended and call for the previous question?

THE PRESIDENT—The gentleman did not.

The amendment of the delegate from Macon was read as follows: Strike out the words "it shall be the duty" and insert "it shall be in the power of the General Assembly."

MR. COBB—The proposition offered by the gentleman from Montgomery is in my opinion misleading. It has been asserted, perhaps by himself, that his proposition left it entirely with the Legislature to create this pension or not and yet in reading his amendment it is mandatory on the Legislature. They cannot neglect to perform that which in the Constitution is denominated a duty upon them. Therefore, if it is desired by the Convention to leave this question of establishing a civil pension list to the Legislature, my amendment should be adopted.

MR. HINSON—What would be the effect of your amendment?

MR. COBB—To leave the whole question to the Legislature.

MR. HINSON—Would it really have any effect?

MR. COBB—It would leave it to the Legislature.

MR. HINSON—Has not the Legislature already that power?

MR. COBB—I think so, and I am going to make that argument against the whole proposition. The gentleman anticipates me. I was attempting to reinforce the strong argument made by the gentleman from Greene that this is a matter wholly unsuited to go into the Constitution as a part of the organic law. The whole question is in the power of the Legislature to deal with, and I object here and now as I have objected before, to putting in this organic law, matters which are now and will remain entirely within the powers and purview of the Legislature of the State.

Mr. President, it fatigues me to hear men get upon the floor, as they have done from time to time, and talk abou the Legislature doing nothing and that it will do nothing, you cannot get them to do anything, that tney are subjected to this influence and that influence. I would like to ask what right have we to arrogate to ourselves superior virtue. We are the representatives of the people and nothing more. The Legislature is composed of representatives of the people and nothing more. If half that has been said upon this floor with regard to the Legislature be true, we had better despair of representative government in the State of Alabama. The Legislature comes from the people. The legislators are supposed to represent the wishes of the people. They represent the power of the people, and if, from time to time, as has been asserted here, Legislatures assemble who are subjected to bribery and to influences in the nature of a bribery, and who do nothing in the interests of the people, then what becomes of our boasted institution of representative government?

Mr. President, I do not propose to make any argument in extenso in regard to this proposition more than that. I would like if time were not pressing, to answer some of the questions that have been propounded upon this floor. Delegates have asked the question, what is the difference between pensioning the soldier who gave his life for his country and pensioning a Sheriff who gave his life for his country, and my friend in an ex cathedra style asks who has said anything about policemen, when something was said about pensioning them. The fact that nothing is said about policemen is all the worse for his proposition. The policemen of the city of Montgomery are in more danger every night that passes than any Sheriff of Alabama was ever in from any organized mob.

MR. BURNS—Has any ordinance been framed for this Constitution that policemen should lay down their lives in discharge of their duty?

MR. COBB—No sir; no ordinance is required to make a policeman lay down his life in the discharge of his duty, and no

ordinance is required to make a Sheriff lay down his life, if need be, in the discharge of his duty. He takes the office cum onere. So does the policeman, and if in the discharge of duty he must sacrifice his life, it is duty he is performing for which we are not called upon as a government to compensate him in the way of a pension.

MR. BURNS — Will the gentleman answer the question I propounded?

MR. COBB—I have answered it.

MR. CARNATHAN—I rise to a point of order. The gentleman is out of his seat, (indicating the delegate from Dallas.)

MR. COBB—I rose from my seat and I walked here. I will answer any question that the gentleman asks.

A policeman is a quasi State officer, just as much a subject for pension by the State as a Sheriff.

Now in answer to the other question as to the soldier. The concensus of opinion of the United States has heretofore been and continues to be, that we should make a broad line of demarkation between a military pension and a civil pension list. The Government of the United States, as liberal as it has been in pensioning people, and you know how liberal it has been, and so do I—

MR. WHITE—Will the gentleman from Macon allow me to ask him a question?

MR. COBB—Certainly.

MR. WHITE—Does the United States pension judges of its courts after they have lived seventy years and served twenty years?

MR. COBB—They do not.

SEVERAL DELEGATES—They do.

MR. COBB—The United States Government provides that when a United States Judge has served a certain length of time and has reached a certain age, he may voluntarily retire under full pay. That is quite different from a pension.

There is no pension civil list in the United States except perhaps in one instance. Congress has passed a law that if a President or an ex-President dies, his widow may receive so much money during her life. That I conceive to be in the nature of a civil pension, but it is very restricted, it stops there, with the widow of a President, or ex-President, and that is only because of the great dignity of this high office. Beyond that there is not a single provision in the laws of the United States for a civil pension list.

In answer to my friend from Jefferson I would say to my certain knowledge and to the knowledge of my friend, Governor Oates, effort was made in the Congress of the United States to pension the family of Chief Justice Waite and it failed overwhelmingly. Is not that so?

MR. OATES—It is.

MR. COBB—And every effort that has been made in that body to begin the organization of a civil pension list has failed, and mainly for the reason that when you begin this civil pension list there is no end to it, there is no stoppage. You cannot say "thus far and no further," because the argument will come and it will be overwhelming, that if the family of this civil officer is pensioned, the family of that civil officer should be pensioned, and strong reasons will be urged. Therefore I repeat the Government of the United States has hitherto steered clear of the establishment of a civil pension list.

Now as to the necessity, I want to ask my friends here who are so earnest upon these propositions, to tell me whether or not the sheriffs of the State of Alabama have hitherto failed to do their duty?

MR. JONES (Montgomery)—Are you asking me?

MR. COBB—Yes, you.

MR. JONES (Montgomery)—Yes, in several instances. There was a case in Elmore County where the military were run around for four or five miles to keep them away from the mob. There have been lots of cases where the sheriffs have failed to do their duty, not through cowardice, but because they felt it was morally wrong to defend some worthless prisoner.

MR. PARKER (Elmore) — I want to ask the gentleman from Montgomery a question.

THE PRESIDENT—The gentleman from Macon has the floor.

MR. PARKER (Elmore)—I will ask the delegate from Macan the question and the gentleman from Montgomery can answer it.

THE PRESIDENT—Does the gentleman from Macon yield to the question?

MR. COBB—Oh, yes.

MR. PARKER (Elmore)—Was it not the fault of the military, and were they not led around purposely by the Sheriff and didn't they fail to do their duty on that occasion?

MR. JONES (Montgomery)—I don't understand how.

MR. COBB—Whether the military were not misled by the Sheriff running around?

MR. JONES (Montgomery)—If the Sheriff, when the life of his prisoner was at stake, deluded the strong arm of the law and led the military on the wrong trail, what was that but the fault of the Sheriff?

MR. COBB—This is not my fight. The question I want to ask the gentleman from Montgomery is this. Do you know of a single instance in the State of Alabama where a Sheriff stood up to his duty that he was ever interferred with by a mob?

MR. JONES — I do not believe I do, except in a case the other day in Huntsville where the Sheriff stood with his pistol and the mob would not face him, but smoked him out with chemicals; and one other Sheriff in Jefferson County was assaulted by an armed mob and he killed and wounded about forty and no mob has ever been around that jail since.

MR. COBB—Therefore when the Sheriff does his duty, the mob retires.

MR. WALKER — And I desire to state that the Sheriff of Madison County is not an applicant for a pension.

MR. JONES (Montgomery)—And I desire to state that the Sheriff of that county is not dead, and it is not a question of what ought to be done for his widow or dependent children if he had been killed.

THE PRESIDENT—Does the delegate from Macon consent to be interrupted?

MR. COBB—I do.

There were no further questions.

THE PRESIDENT—The gentleman will proceed.

MR. COBB—I never talk without I think I have something to say, others may not agree with me, but at all events, I want to get through with this business. There is a sentiment prevailing in the State of Alabama and in every other State in the American nation and in all civilized governments that the walls of a jail should be, as against illegal entrance from without, as strong as adamant although made of gossimer, and that sentiment has a deterrent effect upon any mob that ever assembled. Whenever the Sheriff does his duty, the history of this State is to the effect that the mob after making some show, retires. They will not face the music and hence, I repeat, as against mob violence, the Sheriff is in less danger than a policeman in Montgomery every night.

MR. WHITE—Will the gentleman permit a question?

MR. COBB—Yes.

MR. WHITE—If the mob retires, will we have to pay any pension?

MR. COBB—No, sir; and if he does his duty they will retire without having before his eyes the question of a pension or not. I have heard, and you have heard, Mr. President, and all of us of the killing of Sheriffs by desperate men whom they were attempting to arrest. That occurs frequently. Are you going to pension a Sheriff because a desperado he is attempting to arrest kills him?

MR. HINSON—I would like to ask the gentleman a question.

THE PRESIDENT—Does the gentleman yield for the interrogatory?

MR. COBB—I hate not to do it—oh, go on.

MR. HINSON—Does the sheriff get any financial benefit from arresting the man?

MR. COBB—Yes.

MR. HINSON—Does he when he is defending the prisoner?

MR. COBB—Certainly, the same.

MR. HINSON—How?

MR. COBB—I will show you if you give me time.

MR. BURNS—Will the gentleman let me ask a question?

MR. COBB—One at a time gentleman. The Sheriff of the county gets no special benefit from arresting prisoners. He gets $2.50 and he gets about the same amount or more for keeping his prisoner in the jail, and where is the difference when it comes to pay? The Sheriff receives pay which the law considers adequate taking into consideration all the risks of his work.

But to come back to the question, the main question is the establishment in the State of Alabama, for the first time in its history, of a civil pension list.

MR. BAREFIELD—I move to lay the amendment of the gentleman from Macon on the table.

MR. COBB—I have not yielded the floor.

MR. FOSTER—I make the point of order that he has spoken thirty minutes.

THE PRESIDENT—The Chair understood that the delegate from Macon had yielded the floor and recognized the gen-

tleman from Monroe and he moves to lay the amendment of the delegate from Macon on the table.

MR. JONES—I hope that the gentleman will not insist on that. While the gentleman from Macon is on the other side, he has taken up about two-thirds of his time answering questions which have been propounded to him.

MR. OATES—I did not understand the Chair to recognize the gentleman from Monroe for any such purpose.

THE PRESIDENT—The gentleman from Monroe moved—

MR. OATES—I did not understand the Chair recognized him for the purpose of making that motion.

THE PRESIDENT—The Chair did not recognize him for any special purpose, and the Chair did not know he was going to make that motion. Does the gentleman consent to withdraw the motion?

MR. BAREFIELD—No sir. We have taken up enough time already, Mr. President, and I move to lay the amendment of the gentleman from Macon on the table.

MR. HEFLIN (Chambers)—We demand the ayes and noes on that proposition.

THE PRESIDENT—The question is, is the call sustained?

The requisite number rising, the call was sustained.

MR. JACKSON—There has been so much discussion, we would like to hear the amendment read again.

The amendment was read as follows: Strike out the words "it shall be the duty" and insert "it shall be in the power of the General Assembly."

THE PRESIDENT—The question is on the motion made by the gentleman from Monroe to lay the amendment of the gentleman from Macon upon the table. Those in favor of tabling the amendment will say aye, and those opposed no, as their names are called.

AYES

Ashcraft,	Byars,	Foster,
Banks,	Carmichael, of Coffee,	Gilmore,
Barefield,	Case,	Graham, of Montgomery,
Beddow,	Cunningham,	Graham, of Talladega,
Blackwell,	deGraffenreid,	Grayson,
Brooks,	Duke,	Hinson,
Burnett,	Eyster,	Hood,
Burns,	Fitts,	Howell,

Jackson,
Jenkins,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Leigh,
Macdonald,
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Martin,
Morrisette,
Mulkey,
Norman,
Norwood,
O'Rear,
Palmer,
Parker (Cullman),
Pettus,
Porter,
Reynolds (Chilton),
Rogers (Lowndes),
Selheimer,
Smith, Mac. A.,
Sorrell,
Spears,
Thompson,
Watts,
Weakley,
White,
Whiteside,
Willet,
Williams (Marengo),
Wilson (Washington),
Winn.

TOTAL, 60.

NOES

Messrs. President,
Altman,
Bartlett,
Beavers,
Bethune,
Boone,
Browne,
Bulger,
Cardon,
Carmichael, of Colbert,
Carnathon,
Chapman,
Cobb,
Cofer
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Craig,
Davis, of DeKalb,
Dent,
Espy,
Ferguson,
Fletcher,
Foshee,
Freeman,
Glover,
Grant,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Howze,
Inge,
Jones, of Bibb,
Jones, of Hale,
Kirk,
Kirkland,
Locklin,
Long (Walker),
Merrill,
Miller (Marengo),
Miller (Wilcox),
Moody,
Murphree,
Oates,
O'Neal (Lauderdale),
O'Neill (Jefferson),
Opp,
Parker (Elmore),
Pearce,
Phillips,
Pillans,
Pitts,
Proctor,
Reynolds (Henry),
Robinson,
Rogers (Sumter),
Samford,
Sanders,
Sanford,
Searcy,
Smith (Mobile),
Sollie,
Spragins,
Vaughan,
Waddell,
Walker,
Weatherly,
Williams (Barbour),
Wilson (Clarke),

TOTAL—73.

ABSENT OR NOT VOTING

Almon,
Davis, of Etowah,
Eley,
Greer, of Perry,
Hodges,
King,
Ledbetter,
Lomax,
Long (Butler),
Lowe (Jefferson),
Lowe (Lawrence),
Maxwell,
NeSmith,
Reese,
Renfro,
Sentell,
Sloan,
Smith, Morgan M.,
Stewart,
Studdard,
Tayloe,
Williams (Elmore),

MR. WEATHERLY—Now I move to lay the original section, the substitute and the amendment, on the table.

MR. JONES—On that I ask the aye and no vote.

The call for the ayes and noes was sustained.

MR. COLEMAN (Greene)—I desire to submit a few remarks to the main question.

THE PRESIDENT—The gentleman from Jefferson moves to lay upon the table, which would not be debatable. The motion is to lay the original section, as amended, and the proposed amendment upon the table. As many as favor the motion to table will vote aye, and those opposed will vote no, as their names are called.

During roll call, Mr. Jackson asked unanimous consent to explain his vote, to which objection was made.

AYES

Messrs. President,
Altman,
Bethune,
Boone,
Bulger,
Cardon,
Carmichael, of Colbert,
Carnathan,
Chapman,
Cobb,
Cofer,
Coleman, of Greene,
Coleman, of Walker,
Craig,
Davis, of DeKalb,
Dent,
Duke,
Espy,
Ferguson,
Fletcher,
Glover,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Randolph,
Heflin, of Chambers,
Henderson,
Howze,
Inge,
Jones, of Bibb,
Jones, of Hale,
Kirk,
Kirkland,
Locklin,
Long (Walker),
Merrill,
Miller (Wilcox),
Moody,
Oates,
O'Neal (Lauderdale),
Opp,
Parker (Elmore),
Pearce,
Phillips,
Pillans,
Pitts,
Reynolds (Henry),
Robinson,
Rogers (Sumter),
Samford,
Sanders,
Searcy,
Smith (Mobile),
Sollie,
Spragins,
Vaughan,
Waddell,
Walker,
Weatherly,
Williams (Barbour),
Wilson (Clarke),

TOTAL—62.

NOES

Almon,
Ashcraft,
Banks,
Barefield,
Bartlett,
Beavers,
Beddow,
Blackwell,
Brooks,
Browne,
Burnett,
Burns,
Byars,
Carmichael, of Coffee,
Case,
Cornwall,
Cunningham,
deGraffenreid,
Eyster,
Fitts,
Foshee,
Foster,
Freeman,
Gilmore,

Graham, of Montgomery,	Malone,	Sanford,
Graham, of Talladega,	Martin,	Selheimer,
Grant,	Miller (Marengo),	Sloan,
Grayson,	Morrisette,	Smith, Mac. A.,
Hinson,	Mulkey,	Sorrell,
Hood,	Murphree,	Spears,
Howell,	Norman,	Thompson,
Jackson,	Norwood,	Watts,
Jenkins,	O'Neill (Jefferson),	Weakley,
Jones, of Montgomery,	O'Rear,	White,
Jones, of Wilcox,	Palmer,	Whiteside,
Knight,	Parker (Cullman),	Willet,
Kyle,	Pettus,	Williams (Marengo),
Leigh,	Porter,	Wilson (Washington),
Macdonald,	Proctor,	Winn.
McMillan (Baldwin),	Reynolds (Chilton),	
McMillan (Wilcox),	Rogers (Lowndes),	

TOTAL—73.

ABSENT OR NOT VOTING

Davis, of Etowah,	Long (Butler),	Sentell,
Eley,	Lowe (Jefferson),	Smith, Morgan M.,
Greer, of Perry,	Lowe (Lawrence),	Stewart,
Hodges,	Maxwell,	Studdard,
King,	NeSmith,	Tayloe,
Ledbetter,	Reese,	Williams (Elmore),
Lomax,	Renfro,	

MR. SOLLIE—I have an amendment.

MR. deGRAFFENREID—I rise to a point of order. The gentleman cannot introduce an amendment to the amendment.

THE PRESIDENT — The Chair recognized the gentleman from Montgomery.

MR. OATES—Mr. President, I have observed closely the temper and disposition of the delegates in this Convention every day since it has been in session, and I never saw in all of my experience a body of men who thought for themselves more completely than this. No man is a leader here. All think for themselves, and there is an amount of independence which characterized their voting which is highly commendable, for in nearly every deliberative body, a good number have their file leaders and follow them. They acquire that habit. If they do not have it at first, as soon as they become acquainted with each other, it results.

Now, I am persuaded that this case is somewhat exceptional. On Saturday my colleague and esteemed friend, the Chairman of the Committee on Executive Department, made a remarkably able

and feeling speech in favor of the thirtieth section in regard to the duties of sheriffs to resist mobs and to protect prisoners, I felt considerably moved by that speech myself. I believe that I know my friend well, and there is no man more honest or sympathetic, or more enthusiastic. Wherever he believes his duty leads him, than that gentleman. I know full well, too, the opposition which he felt during his administration of the office of Chief Executive, and has ever since, to mobs, and the outrageous slaughter of prisoners, taken from the custody of the sheriff or his posse, and I sympathize with that sentiment. It is a great evil in Alabama, which ought to be put down, and sheriffs, their deputies and their posses, ought to be encouraged to manfully resist such lawless procedure.

I was heartily in favor of the proposition coming from the Committee of which my friend is the distinguished Chairman, and voted cheerfully for it. The language which I will call to the attention of delegates is as follows:

"Whenever any prisoner is taken from the jail or from the custody of the sheriff or his deputy, and put to death, or suffers grievous bodily harm, owing to the neglect, connivance, cowardice or other grave fault of the sheriff, such sheriff may be impeached under Section 2 of Article VII of the Constitution; and the Governor when satisfied, after hearing the sheriff, that he should be impeached, may suspend him from office for such time as he may think proper, until the impeachment proceedings are fully disposed of."

Now, sir, when my friend was dwelling upon that, he overdrew the matter to this Convention, and drew a more vivid picture than the situation justified, because of his extraordinary earnestness. A man of high courage, erects an equally high standard for every sheriff in the land, and it was but natural in him, full of courage, to erect such a standard. On the other hand, when he thinks of that sheriff being killed, to turn in sympathy to his bereaved family is but natural, for another characteristic of the distinguished gentleman, with all of his high courage, is that his heart is as tender as that of a woman. But, sir, we are dealing with solid propositions, to be embraced in the fundamental law of Alabama, which may stand, and I hope will stand, for fifty years to come.

Is there anything in this which requires the sheriff or his deputy, or any member of his posse, to uselessly sacrifice his life? What is the language where he gives up his prisoner, "owing to the neglect, connivance, or cowardice, or other grave fault of the sheriff." Suppose he is not guilty of either of these. Now, any sheriff who would be guilty of either one of these derilictions ought to be dealt with by the Governor, and a just Governor would, in the discharge of his duty, when he looked into it order

his impeachment, if he found there was good reason to believe that such officer were guilty of such deriliction. If not, suppose that he found that the sheriff, while he withstood the mob, and defended the jail, and said, "stand back, do not come," and did all that he could. Suppose that he did like the jailer or sheriff alluded to by my friend, with pistol in each hand, confronted the mob, saying, "I will kill any man who advances," and some of them should steal in behind him, and catch him by the arm, and in that predicament disarm him, what Governor would order his impeachment? None.

MR. DENT — I see the time of adjournment will soon be reached and I move that the rules be suspended and the Convention remain in session until the gentleman from Montgomery concludes his remarks.

Upon a vote being taken the rules were suspended.

MR. OATES—Mr. President, I thank the Convention. I will not detain them long.

Now, what must a sheriff do in order to bring about his death? No mob wants to kill the sheriff. They are after the prisoner in his custody, and they will not undertake to kill the sheriff unless they are remarkably desperate, and it becomes absolutely necessary to consummate their design. Why, sir, I was informed but a day or two ago, by a high official in this County, that not a great while ago the present sheriff of Montgomery County had in his custody, with one or two assistants, some prisoner that the mob desired to deal with and put to death, and they came upon him to take the prisoner away, and he informed them, or sent the messenger back, saying "they better not undertake to do it. I will fire on them, I am bound to protect my prisoner and I am going to do it." They sent back to him and said these men are your friends, you would not fire on your friends, would you? His prompt reply was, "I have no friends who will undertake to wrest from me a prisoner, they had better not try to do it," and they retired. They knew he was a man of his word and that he would have fired on them. Such firmness as that in a sheriff in the discharge of his duty is about all that is needed.

Why, sir, I recollect well a case in the County of Dale. It was a very noted case, and an appeal from the conviction of the prisoners came to the Supreme Court three times. Three negroes had murdered a white woman, a widow. They were arrested and incarcerated in the jail, and a mob was organized of a hundred men, well armed, who went to the jail and demanded the prisoner. The sheriff, with but three or four men to assist him, hearing of their coming, armed his men with double-barred shot guns, and they stood in front of the door, and the sheriff told them, "You are numerous, but if you undertake to break this door

we will kill as many of you as we can. I will order you fired upon, and my assistants will do it." They backed out, the whole hundred, and retired. Well the negroes were tried time and again; the Supreme Court gave them new trials upon technicalities and finally they were executed.

Now, sir, a sheriff has only to be firm. Not connive at things of that sort, and not be guilty of any fault, but stand firmly by his duty, taking sufficient precaution in summoning courageous men to assist him, and he will not be killed, and his prisoner will not be killed, but too many, anxious to be on what they consider the popular side, and in the popular indignity towards the prisoner and desire to sacrifice him, the Sheriff conceives that to be the popular side, and having personally no sympathy whatever with the prisoner, but only a duty to perform, he does not perform it, but winks at being overcome and the keys are wrested from him, and the jail opened, or the prisoner wrested from him if not in jail. That is the sort of deriliction in the Sheriff that is aimed at in this provision, and if he is guilty of it, and is not in the performance of his duty, he ought to be impeached. He is an officer of the law. He sought the office and swore to perform its duties. That is no unreasonable requirement of him.

As such is the fact, I ask delegates to consider what they are doing. Are you going to incorporate into the fundamental law, to remain probably for fifty years, that the families of any Sheriff or deputy, or any of his posse, who get killed in persisting a mob, are to be compensated by the Legislature? Gentleman it reminds me of a law that was passed in 1868, by what was known as the Carpet-bag Legislature. We had some Ku Klux about then, and it was said they killed several people, but I never believed it. I never had any respect for them, because I regarded them as utterly inefficient for not killing some people they allowed to escape. That Legislature enacted a law that wherever any one was killed mysteriously, where they did not know who did it, that the county should be liable to the widow of the slain. She could sue the county and recover large damages so as to make the people very vigilant in ferreting out such violations of the law. Well, sir, that excited contempt for the authorities who enacted it of all our best people, and as soon as they got an opportunity it was wiped out.

Now, sir, I do not intend to characterize this pending proposition by any such language as that. It is well intended by my eloquent and learned friend from Montgomery. It is well intended by the gentlemen who have voted for it. It is in a spirit, they believe, of true kindness, to be extended to the bereaved of any officer who is killed, but do you not know, gentlemen, has not experience taught you, that if such be the law, every time that anything can be attributed to such a cause, where there is any ten-

dency tending to show that a man has lost his life in that way, the play will be made before the Legislature as to how much money will be appropriated?

Now, gentlemen, if any man should lose his life in that manner, no one would sympathize with his family more than I would, but to incorporate such a provision into the fundamental law is a departure from anything we have ever had in it. It is dangerous. You cannot tell, nor can I, what is coming in the future. I will ask you this question, will it add anything to the performance of their duties on the part of sheriffs? Will it, or not? I presume that none of them would seek death in order that their families might be rewarded by the Legislature. I would not suppose they would be that reckless. Will they not perform their duties just as well without any such provision? And is there anything extraordinary in the requirement of them which has been adopted by this Convention? Nothing in the world. It is simply a requirement, in plain language, that the sheriffs and their officers, shall do their duty in respect to prisoners in their custody. Then why this extraordinary proposition? Is it wholly unnecessary. It is dangerous to put it in the fundamental law, where it cannot be changed except by a vote of the whole State. We had better leave that out, and leave in the provision already adopted to govern sheriffs in the performance of their duties. There is nothing in it that will stimulate sheriffs to recklessly sacrifice their lives. He simply must do his duty, and when he does that, no Governor is going to impeach him. If the mob overpowers him, breaks the jail, takes out his prisoner and puts him to death, it will not be his fault. The question primarily to be considered by the Governor, who must initiate the action towards his impeachment, is, did you strive to do your duty, and the Governor can receive evidence to determine that proposition. If he did not, what ought the Governor to do? He ought certainly to order his impeachment, and then try it before our highest court, and if guiltless he would be acquitted. So there is nothing in any aspect of the case to require a man unnecessarily to sacrifice lives. He is not in the attitude of the soldier. My friend has eloquently said that it was the duty of the soldier to put on the garb and stand at his post and die there in obedience to orders. I have no doubt but my friend is gallant enough to execute such an order, but a soldier is a man who is under the orders of his superiors all the time, and the excellence of a soldier is the obedience to orders. The Sheriff is the man who orders. He is the Captain. He is the man to exercise the discretionary power.

Gentlemen, it is unnecessary for me to add to what my friend and former comrade in the Congress of the United States, the delegate from Macon, has well said. The question has often been presented in the Congress of the United States, a body that is the most liberal of any in the world in granting pensions to soldiers

and to their widows and children, but as he truly stated, it has never gone a single step in the direction of a civil list, though the power that has been brought to bear to influence members thus to act has been very great. The single exception is the provision for the widow of President Garfield, who was slain, and I will state my recollection is, though I may be wrong in it, I do not think that is a general law, applicable to the widows of the Presidents. That was an exceptional case, as you will know, and I believe that is what influenced Congress to pass that act.

Gentlemen, it is always, in private life and in public affairs, disagreeable to me to differ with my friend over there, because the personal relations between us are so remarkably kind, and I hope ever will be, but here is a solemn duty we all have. I see it quite differently from what my friend does, and differently from those gentlemen who I think in the first place were largely influenced by his remarkable speech uttered on Saturday afternoon about the duties of sheriffs, comparing them to soldiers who in the estimation of my friend are very much like the French Marshall, who, when surrounded with enemies and they demanded his surrender, said a French Marshall dies but never surrenders. That is too high a standard to erect for the sheriffs of the counties of this State. Direct what is his duty, and if he is overpowered, that is all that is required of him, nothing more.

Now, Mr. President, again returning my thanks to the Convention for their patience in hearing what I had to say, I will conclude my remarks by asking gentlemen to think well over this matter: whether they have voted one way or the other. There is too much independence, too much intelligence, too much high character among the delegates on this floor to consider or refuse to consider a proposition on account of pride of opinion. Consider it, gentlemen, and see that you are not making a mistake, before you act in regard to it.

MR. JONES (Montgomery)—I would like to make a privileged motion. We adjourn until 3. I move that we adjourn until 3:15, so that we can get the two hours. We are now late.

THE PRESIDENT — The gentleman from Montgomery moves to suspend the rules and fix the time of meeting this evening at 3:15.

MR. BAREFIELD—I move to amend by making it 4.

MR. HEFLIN (Chambers)—I want to amend the motion of the gentleman from Montgomery so that we may remain in session until 6.

There were expressions of dissent.

MR. HEFLIN (Chambers)—I withdraw my motion.

THE PRESIDENT—Does the gentleman accept the amendment?

MR. JONES—No, sir.

Upon a vote being taken the motion was lost.

After announcement of Committee meetings, the leaves of absence granted Mr. Cofer and Mr. O'Neal (Lauderdale) for today were withdrawn by their request.

Thereupon the Convention adjourned until 3 p.m.

AFTERNOON SESSION

The Convention was called to order by the President, and the roll being called showed the presence of 105 delegates.

Leave of absence was granted Mr. Beaver for the afternoon.

Mr. Coleman of Greene and Mr. Jones of Montgomery both endeavored to obtain recognition from the Chair. The Chair recognized the gentleman from Montgomery, who yielded to the gentleman from Greene.

MR. COLEMAN (Greene)—Mr. President and delegates to the Convention. A delegate very frequently feels embarrassed in rising to express his opinion upon any subject when there is manifest impatience to hear him, and especially is this more so with me when I have not perfect confidence in my own judgment and conclusions. Nevertheless, upon a question so grave, as the one now before us for consideration, I feel I would not do my duty unless I urged the objections I have to the adoption not only of the amended resolution, but of any resolution or ordinance upon this subject. We have had Constitutions in this State, six or eight, or perhaps seven, I don't remember exactly the number.

MR. GRAHAM (Talladega)—I do not want to interrupt the gentleman, but we cannot hear him at all.

MR. COLEMAN (Greene)—I don't know that the delegates will miss a great deal.

I know of no similar provision in the Constitution of any other State. Certainly nothing similar has been introduced into the organic law of the State of Alabama, and we have lived and done fairly well under most adverse conditions that a State was ever subjected to. The section preceding this which provides for the impeachment of a Sheriff, arms the Executive with all the power he wants. This adds nothing to the Executive power. It is a legislative provision entirely for the benefit of the Sheriff and is out of place in my opinion under the head of the Executive Department.

But independent of that, the reading of the original section and the reading of the amendment as adopted, and which is now the section before this Convention, seems to me to be wanting in definiteness and position. It says "adequate" provision shall be made for the family of a Sheriff who may be killed in defending a prisoner. If I should take a poll of all the delegates here and ask each one what is meant by "adequate" what would be the answers? There would probably be as many answers as those given separately. But a law has to be defined and fixed. And I notice there is no limit whatever put upon the amount to be paid. We know that in assessing damages frequently for the loss of a man just compensation, which I think would be a better term, juries range from two to forty thousand dollars. There is nothing in this provision whatever that puts any limit upon the power of the Legislature to make such appropriations as it sees proper to come up to the standard of adequacy. I fear that the delegates sometime have their judgments moved by the appeals made and the citing of certain extreme instances, some of those alluded to by the delegate from Montgomery. There is nothing better established in law than extreme cases make shipwreck of great principles of law and justice. Whenever you are moved by an appeal because of the hardship of a particular case from providing for the general good, it is not wise legislation, much less should it be in the organic law of a State. And what necessity is there for it? The Legislature is fully competent to devise ways and means and to make appropriations as they arise if it is necessary, and I do believe the delegates to this Convention will bear with me that we are losing sight of the organic law, a law which is to control legislation, a law which is to confer privileges and place limitations upon the powers which they exert and not the granting of legislation itself.

Now I ask the delegates to consider what is to be effected by putting into the organic law a provision that the Legislature shall make adequate provision for the families of those who are killed in defense of a prisoner. The words are "in defense," whether justified or not, and then comes the question of adequacy, undefined as it is, ranging from one price to another perhaps, according to the families and according to the efficiency of the Sheriff.

MR. BOONE—Don't you think that word "adequate" would cover as much as the man was fairly making? Say he was making $100 a month, that he was making and providing that much money per month to his family, would not that make at least $100 a month?

MR. COLEMAN (Greene)—I don't think "adequate" would, but I would think "just compensation" would. "Adequate" is I believe proper return for the purpose intended. That is the gen-

eral signification of the word adequacy as I remember. Compensation is to reimburse for the loss sustained. That is about the way the two words run. But delegates in framing laws should know exactly what words they are using because when the courts come to construe them or the Legislature comes to apply the law, each one will have his own opinion as to what was intended by "just compensation" or "adequate provision" unless defined by law and whether that relates to one member of the family or the entire family, is wholly indefinite.

But it is legislation. It is forgetting the purpose for which this Convention assembled and traveling into the domain of purely legislative matters. That is the most serious objection to it, and that is an objection, it seems to me, that ought to be raised to every resolution or ordinance introduced here which ought not to be in the organic law, for under our system the Legislature has all power except where it is limited by the Constitution itself.

Many instances have been stated of heroic venture by the officers of the State. If it will serve any purpose I can give one from my own county, perhaps unparalleled in the State of Alabama. There was a prisoner committed to the Sheriff of Greene County and placed in jail. Just about daylight a body of men appeared apparently with a prisoner and told the jailer they had a prisoner to be placed in jail and thus induced him to open the doors. When they entered their wants and desires were manifest. They took the prisoner which the jailer already had in jail, who was charged with a heinous offense, and started away with him to take him to the scene of his crime, and hang him. The jailer notified the Sheriff and by sun-up the Sheriff was on horseback with three or four of his men. The party was overtaken at daybreak near Eutaw and there they halted. The Sheriff demanded of them the prisoner. They declined to surrender him. He ordered his men to present arms, and they did so. He notified the crowd if they did not give him the prisoner he would fire into the body, large as it was. He told them he was the Sheriff and represented the State of Alabama. And although they were brave men, they would not resist the State of Alabama, and they surrendered the negro and he brought him back and put him in jail again. That is a real instance.

There is very little danger if the Sheriff is at all brave and prudent. Representing the State of Alabama, he is vested with all the power that it is possible to invest a man with. No man dare resist him and no man dare refuse to obey when he summons him as a posse. Now it might be if that man had been killed the State of Alabama ought to have taken care of his family. But it shows there is not much danger where a man is prudent and brave and is acting in the name of the State and asserting the authority of the State.

But independent of all that, this is pure legislation and not properly connected with the Executive Department of the State. You have armed the Executive officers of the State with all the power you desire. The Sheriff must act up to his duty or he may be impeached or removed and that is sufficient for the executive power to see that the laws are carried out.

I speak with a proper sense of my own inability, but with a deep sense that we are doing wrong to load this Constitution with legislative enactments and I oppose every movement of that kind.

MR. DENT—I sympathize very much with the purpose of those who are favoring this ordinance but there is one view of it which they present which I have not heard combatted by those who are opposing it and that is this: It seems to be taken for granted that new duties and responsibilities have been placed upon the Sheriff. Now I do not understand the provisions that have been adopted. It would certainly be the duty of the Sheriff under the present Constitution to do all in his power to protect the life and person of a prisoner in his charge.

A DELEGATE—No.

MR. DENT—I think it is and for that reason it seems to me there is no new duty. He is Sheriff and that is his obligation when he enters upon the duties of that office. It seems to me the only difference is that we have provided a new court for his impeachment and trial. As I understand the provisions of the old Constitution a Sheriff could be tried before a Circuit or City Court. This Constitution, if adopted, provides that he can be tried by the Supreme Court of the State. Sheriffs under the old Constitution were liable to impeachment for wilful neglect of duty, corruption in office, habitual drunkenness, incompetency or any offense involving moral turpitude. It seems to me that that covers the matter. The new question which has been added under the present Constitution, and while I do not object to it, I think it probably emphasizes the duty of the Sheriff, does not seem to me to place any new duty or any new responsibility upon him and if that is the case, I cannot see why there should be an exception made in his favor, that we should grant his family or himself this remuneration for a faithful and earnest discharge of the duties which it seems to me rests upon him now. That is all I desire to say, and that is the reason I oppose this amendment.

MR. JONES (Montgomery)—I am well aware that this debate had consumed a great deal of time and that members are anxious to vote upon it. Nothing but a sense of duty to the Committee, which accepted the proposition offered by the gentleman from Dallas, and the belief in my mind that whatever might have been the case if this proposition had not been introduced, it would

now be exceedingly unfortunate to reject it, compels me to obtrude myself once more upon the House upon this question.

As I listened to the words of my friend from Montgomery, a man of whose friendship I have always been proud, I thought to myself how different would be his acts from what he preaches if a prisoner were in his charge. I know full well that the man who struggled on the Roundtop, and who was at Snodgrass Hill and who left one arm in Virginia, if he had a prisoner in his charge, would lose the other before any man should take him until they disabled him.

Now, I did not take to myself that part of my friend's argument which tried to persuade members of this House that my earnestness may mislead their judgments, and in consequence of my earnestness—and that was all there was in what I said—that in consequence of my earnestness some of them might be moved against their better judgments. I realize that whatever success there was in the proposition to have the Sheriff impeached before the Supreme Court, was not because I advocated it, but because the people of Alabama found in the current history ample justification for it and that public opinion had crystalized on that subject long before we came here.

When we analyze the differences in this debate, we find one sentiment set off against another. No gentleman on this floor has said in the abstract that it was not just, that it was not right when a man died in the service of the State for the State to take some thought of those he left behind him. Upon that, as an abstract proposition of justice, no man has gainsaid the proposition of the Committee. But my friend from Macon and my friend from Montgomery and other gentlemen, have attached great importance to the fact that, as they say, for the first time in Alabama, we set the precedent of a civil service pension, that it is all right to have a pension for man who dies in uniform in the military service, but the precedent of civil pension is all wrong, leads to harm and is unheard of. My friend from Macon is usually very accurate in his illustrations, but the illustration he makes of a civil service pension is not all parallel to the case we have in hand. What is a civil service pension that has been voted down time and again on Congress? It is not a pension to the family of a man who dies in the discharge of duty, but it is to continue for life on a salary at the expense of the people, who still live after they have discharged their duties for a certain length of time. The two cases are not at all parallel.

Now, it is charged here with emphasis by my friend from Greene that we have been living ninety years under Constitutions that had no such provision as this, that this is legislative, and, therefore, ought not to be in the Constitution. Why, Mr. Presi-

dent, our Constitutions are filled with what everyone of us knows are legislative provisions.

MR. FERGUSON—May I interrupt the gentleman?

MR. JONES—Yes, sir.

MR. FERGUSON—I want to ask if this ordinance is not in conflict with Section 37 of Article I. of the present Constitution?

MR. JONES—I don't know what Section the gentleman refers to. Read it.

The Section referred to was read as follows by the Clerk:

"That the sole object and only legitimate end of Government, is to protect the citizen in the enjoyment of life, liberty and property, and when the Government assumes other functions, it is usurpation and oppression."

MR. JONES—Before I proceed to answer that, I would ask the gentleman to point out wherein he thinks there is a conflict.

MR. FERGUSON—Is that the pursuit of life, liberty or the protection of property, putting the granting of pensions into the organic authority? Since the gentleman hands it back to me, I say it is in direct conflict with that Section.

MR. JONES—I asked my friend wherein in his opinion there was any conflict that I might answer. There is not a thing in that provision in conflict with this provision, it will be as binding as the other, and when the Committee comes to arrange this matter, if there is a conflict, they will bring the matter to the attention of the House. But this proposed Article is for the protection of life, for the protection of property, to promote happiness and to provide a mode and means by which that can be attained and to that end there is a large and broad discretion in the Legislative Department.

Now, as I was proceeding to say, Mr. President, there are in every Constitution, a thousand things, more or less, that are pure matters of legislation; but when the framers of a Constitution think a policy is of permanent importance, they put it in the Constitution. Now, for instance, in Section 4 of Article IV, we have this: "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 mode of adjustment." Anybody knows the Legislature could do that without that constitutional power if they wanted to. It was a pure matter of legislation, and yet the framers of the Constitution attach so much importance to that as a permanent policy that they put it in the Constitution. Then they go on and provide here that they shall pass laws against bribery! Anybody knows

that the General Assembly has power to do that without authorization.

MR. COLEMAN—Do you assert as a proposition of law that without law declaring the effect of arbitration, parties could resort to the judicial tribunals to have these rights adjudicated? Is it not by reason of that alone that it is upheld?

MR. JONES (Montgomery)—I understand the Supreme Court in some cases decided that but in my opinion very erroneously.

MR. COLEMAN—Oh, yes.

MR. JONES—Well, the Court thought so for they took it back. I appeal to my friend from Greene if it was necessary to put this in the Constitution to authorize the General Assembly to pass such a law as is referred to in this: "The offense of corrupt solicitation of members of the General Assembly, or of public officers of this State, or of any municipal division thereof, and any occupation or practice of solicitation of such members, or officers, to influence their official actions, shall be defined by law, and shall be punished by fine and imprisonment." There is not a lawyer within the sound of my voice who don't know that the General Assembly had the power to do that. And so there are hundreds of things in the Constitution that the Legislature had the power to do without such Constitutional provisions.

It may be an objection to any proposition that it is a pure matter of legislation, but if it embodies a principle that is permanent, one that is uppermost in the minds of the people, and that they want to declare a permanent policy, they always put it in the Constitution, and they never put into the Constitution things that are transient or transitory and as to which policies may change from time to time.

Then the question is, is this a wise thing to put into the Constitution? What are the objections to it? Is it as to phraseology? We will come to that later on and if gentlemen who agree with the principle but differ as to phraseology will suggest the amendments we shall be very happy to accept their better wisdom. But I take it, the bulk of the objections to this clause is the principle it embodies.

MR. OATES—If this is legislative, is it not the proper office of the Legislature to consider it when they find it their duty to legislate on that subject?

MR. JONES (Montgomery)—Unquestionably, because the highest legislation, the Constitution, says they shall do it, otherwise you leave it to their discretion whether they will or will not.

The Committee used the word "shall" deliberately, with the intent to give a command; for the people to say to their ser-

vants in the Legislature "you shall do so and so." There can't be any mistake about that.

MR. HEFLIN (Chambers)—Under this provision the next Legislature would have to consider this matter.

MR. JONES (Montgomery)—They would if they observed their oaths.

MR. HEFLIN (Chambers)—If they do consider it and pass a law in obedience to this command in the Constitution, and the people decide that they wanted to repeal that law, can they do it without amending the Constitution, or having a new Constitution?

MR. JONES—Yes, because the Legislature could from time to time pass such laws, complying with the spirit of the Constitution, as they saw fit; anl if a particular law was passed and was not entirely proper, they could remedy the evil by changing it.

It is said that this is something new. What are we here for, except to profit by the experience of those who have gone before us? I do not suppose when in the Constitution of 1875, for the first time, the legislative power was limited in the matter of the rate of taxation, that the members of that Constitutional Convention would have considered it an argument against the proposition to restrict taxation, that it had never been done before. That is no argument, or at least a very feeble one. The question is, is there an evil? If so, is it one that this Constitution ought to take notice of, and if that is so, whether the proposition that is announced is wise and proper. Down in our hearts every one of us feels when a man is killed in the discharge of his duty, whether he be in uniform or in civilian's dress, when he is an officer of the State, that exact and equal justice requires that the State of Alabama should, to some extent, recompense those dependent on him, because of the loss of his life. The reason why the State heretofore has not gone into many of these questions is the number of them. I remember distinctly, and if I had not gotten the book I would have given the credit of its approval to my good friend Gov. Oates, where, for the first time, I know of in the history of civilized lands, a State, when a citizen had been imprisoned in the penitentiary and afterwards proved clearly to have been innocent of all crime said "it is the justice of Alabama, although it has never been done before, that you should be recompensed to some extent for the evils you have suffered in the carrying out of the general law," and Alabama paid a man $865. I refer to the act of 1893 for the relief of Lancaster.

I remember another case, and I don't think he was then in a military position, that of Gen. Sam Davis. I don't think he was in the military service of the State at the time, but that grand old hero, in protecting the settlers in the borders, had a noted fight

with the Indians, what is known in history as the Canoe fight. The people of Alabama said "such courage and devotion in that man ought to be rewarded," and in his declining days, when he was suffering poverty, they gave him a pension. It is one of the things in the history of Alabama to which I do not like to allude that Alabama afterwards repudiated that pension, and took it away from him.

MR. COLEMAN (Greene)—May I ask the gentleman a question right there?

MR. JONES (Montgomery)—Certainly.

MR. COLEMAN (Greene)—Are those instances to be found in the Constitution of the State or in legislative actions?

MR. JONES (Montgomery)—I found those two in legislative acts. I cannot see any objection, if the framers of the Constitution think a permanent policy should be pursued, to putting that permanent policy in the Constitution. That is what a Constitution is for, to put in permanent policies or principles, as distinguished from mere policies which shift with conditions and times.

It is no objection that this section might be provided for by legislation. Two-thirds of the things in the Constitution could be done by the General Assembly, if the Constitution were silent as to them. The Legislature could fix the number of courts and the qualifications of the judges, and of the electors, and rights of property, and many other things with which the Constitution deals. They are put in the Constitution because the people consider them of paramount importance, and therefore they deem it wise to put them in the Constitution as guide boards for the Legislature.

Because the Legislature might do a thing is no reason why it should not be put in the fundamental law if the people deem it proper to declare a permanent policy as to them.

It is objected that the Legislature could not know exactly what to do. Purposely, it was not undertaken to define the exact modus by which the duty should be discharged. I can imagine a case arising where the Legislature would hear testimony. Here is John Smith who has been killed in the discharge of his duty. He had not a dollar on earth. He has two orphan children. The Legislature could give them $20 a month until they are grown. There might be another case. Here is a Sheriff who is rich. There was nobody dependent on him. He left a large estate. The Legislature might decline in that instance to make any compensation. They might pass a general law after the manner of the pension law of the United States and make provision by general law for these cases.

MR. COLEMAN (Green)—Do you say under that law the Legislature would have the power or authority to provide for twenty dollars or any other sum for the children of a poor sheriff and would not be bound to make some provision for the children of a rich one?

MR. JONES (Montgomery)—It says "dependent."

MR. COLEMAN (Greene)—Will you add that in there?

MR. JONES (Montgomery)—Will you let me have the amendment. Here is the language: "It shall be the duty of the General Assembly to make adequate provision for dependent members of the family of any Sheriff, Deputy Sheriff or members of any posse who may be killed or permanently injured in defending any person in the custody of the law." Now, what is the trouble about that in the mind of my friend from Greene?

MR. COLEMAN (Greene)—I suppose the gentleman has had so many law suits arising out of those who are dependent on other persons and has had so much difficulty in ascertaining who are dependent, that he should hardly ask the question. It is one of the most difficult questions with which we have to deal.

MR. JONES (Montgomery)—And I was illustrating that the Legislature as a jury would find what they thought proper in each particular case.

MR. PILLANS—Is it the theory of the committee that if this section is adopted, we are to have in each such case a judicial ascertainment by the Legislature of the conditions and quality of the Sheriff as to finances, and what he left, and passing upon it as to what amount of relief should be given or that there should be a general law?

MR. JONES (Montgomery)—The committee left that to the wisdom of the Legislature. I can only answer the gentleman as to what I would do were I in the Legislature.

MR. COLEMAN—Why not leave it all to the Legislature?

MR. JONES—I am perfectly willing to leave it all to the Legislature if the gentleman will put "shall" in it. We will take anything they want, but I don't want the Convention to be in the attitude of saying "gentlemen we think it very well if you think it very well, to do something on this line." We want to go down on this proposition as it is, unless my friend will give better words to express our idea, and not put themselves in the attitude of telling the Legislature "we know if you choose to do it, you can do it, and we hope you will consider it." We want to give them a command to declare that it is the law of Alabama that they shall consider these things. If my friend from Greene would indicate what language he thinks would not be objectionable to him if we can, we will gladly accept it.

MR. COLEMAN (Greene)—If anything is to be adopted I would prefer that it be recommitted to the gentleman to frame something. We cannot in the hurry of a moment frame proper words. I hope the whole thing will be voted down, and that it will be left to the Legislature where it belongs.

MR. JONES (Montgomery)—How can the committee frame a satisfactory section if the gentlemen won't give us the benefit of their wisdom.

MR. FERGUSON—I am not a practiced debater like my friend, the gentleman from Montgomery; but he failed to answer my question awhile ago and I desire now to put it in a more direct and concrete form. I want to ask him the direct question if he thinks the granting of pensions is a legitimate function of government in Alabama?

MR. JONES—If you call the compensation which the States give to a man who suffers a burden which belongs to all the people and not to him alone, a pension, I say it most certainly is a legitimate function of government. It is not in violation of the present Constitution. I answer further that we are trying to make a Constitution, where that will not be contrary to the fundamental law even if it has been in the past. The sovereign people of Alabama have a right to say, and I hope they will say, to the Legislature, when these men—my officers—die in discharge of their duty "you must do something for their families—for those who are dependent upon them." Property is not more valuable than life. When all of a man's property is taken for the public good, the State compensates him for all the excess above his proportion. It does not require him to make the whole sacrifice. This section is only an application of the principle.

Gentlemen say that becoming Sheriff is a voluntary act—that a man runs for that office for the money. If gentlemen don't want the principle to apply to the volunteer, why not let it apply to the members of the posse? He is not a volunteer. He is seeking neither profits nor honor. He is compelled to serve. There is not a man in this house who would hesitate five minutes to vote a reward in money payable at once, or payable in installments, to any soldier who did an heroic act for his people. Our people fight. They are warlike people. Is there not heroism outside of a uniform? There are many grand heroes, who never shouldered a musket or heart artillery's roar, and yet have performed deeds heroic as those of any soldier. If the gentlemen object to the principle that the State ought to compensate men who go down to death for its welfare, well and good. Put it on that ground but not on the quibble, that it is a civic matter. To say that heroism in civil life ought not to be rewarded while heroism in a military capacity ought to be rewarded, is begging the question.

MR. WILLIAMS (Barbour)—Is it in order to offer an amendment now?

MR. JONES (Montgomery)—No, not while I am speaking; but I will yield to the gentleman for that purpose if he will give me the floor when he gets through.

The amendment of the delegate from Barbour was read as follows: Amend Section 31 by striking out the words "Sheriff or Deputy Sheriff."

MR. deGRAFFENREID—I rise to a point of order. The amendment is out of order, as the matter under discussion is an amendment to an amendment.

THE PRESIDENT—In the opinion of the Chair the point of order is well taken.

MR. JONES (Montgomery)—I was about to say that this is a matter of great importance, as an adverse disposition of the question would be considered a refusal to give the moral power of the State to aid the Sheriff. If this Convention votes down every proposition looking to compensation to people who are slain in the discharge of their duty, it will have a bad effect not only upon the sheriffs, but upon the outside world. I do hope the friends of this proposition will not be led astray, because some gentlemen say "you do not take in policemen, or judges or solicitors." We are not dealing now with them, we are dealing with an exceptional case—with a great evil which we rely upon the Sheriff to suppress, and whose duties in connection with the evil make him peculiarly an object of danger and attack. For one I do not hesitate to express the opinion as to the case of policemen slain in discharge of duty. If I had the power to do it, I would provide that every city or town in the State should make compensation to an officer slain in the discharge of duty. However, we are not now legislating as to those matters. We are putting the command into the Constitution regarding certain constitutional officers, and it ought not to go out to the world, after having this provision before us, that we decline to give the moral aid of the State to our sheriffs, and thus put the Convention in the attitude of making a play of words and having a heroic provision in words in the Constitution, which were not intended for actual home consumption, but to be heard of abroad. That is reason why I insist now, no matter what the case, if this provision had never been put before the Convention, that it would be unwise to leave it without making some such provision as that suggested by the substitute. Personally, for the sake of harmony, although I do not think it should be done, I am willing to take out the Sheriff and confine it to his posse; but certainly the State of Alabama ought not to send forth the edict from this hall that it never intends no matter how the citizen in its service is stricken down, to aid his family when he dies in the discharge of public duty.

MR. BOONE—This matter has been very thoroughly discussed, but I want to call the attention of the delegates to the Convention to the wording of that amendment to the word "adequate" in the provision.

MR. JONES (Montgomery)—If the gentleman will suggest a better word we will take it.

MR. BOONE—I will discuss the proposition. I am not in favor of it any way and I am arguing against the proposition.

MR. JONES—Then I suggest to my friend it is not worth while to criticise language when he is against the principle.

MR. BOONE—I oppose the principle and the way you put it. I oppose it in its entirety, in toto and every way you put it. But in as much as you are seeking to put it in the Constitution that way I think it is particularly objectionable the way it is. He says the sheriff or deputy or any member of the posse, etc., shall be entitled to adequate provision. It does seem to me that the word "adequate" if it means full and complete, should not only be to those men but to those who are dependent upon them. Now suppose a man in a posse was a practicing physician or a lawyer in full practice, and he was killed. Would not the question fairly be and would not the Legislature have to construe it in the light of the words of the Constitution and would they not give compensation to the family of that man, taking into consideration his situation in life, his income, what period of life he had yet to live according to the tables of mortality and what is the loss to the family by reason of his death. Would it not mean that? It seems to me it would. So that it would at least be granting to that man such an amount of money or to the family such a sum per annum or in bulk as put out at interest would yield a sufficient amount to make them whole by reason of his death. Now, is this State in any such fix financially as to launch out upon that system of pensioning? The government of the United States, with all of its hundreds of millions don't say they will give to its pension list adequate amounts. Congress has carefully graded that to the different officers and men and gives them a fixed determined sum. But under this constitutional amendment we seek to leave it in the power of the legislature to do in each particular case whatever they may deem just and that they shall do it. Now, take a case after the manner of those cited by the gentleman from Montgomery. Here is a sheriff who seeks to do his duty, and a mob takes his prisoner, and in endeavoring to hold or to protect him that sheriff is shot down. This is a generous people and from the Gulf to the Tennessee line the plaudits of praise are shouted for that man. The legislature is in session and they say for a valuable thing like that he should be given forty thousand dollars." It seems to me vicious and that it should not be put in the Constitution.

MR. JONES—Do you know what the legislature paid for that man who was killed in the service of the State?

MR. BOONE—Would that estop the legislature, what they paid forty or fifty years ago. Is that a fair argument?

MR. JONES—They said it was unconstitutional and that they could not pay him a cent but they got around it and they gave him, popular man as he was, in the nature of a fee to his firm $10,000 and the other members of the firm gave it to his family and if they hadn't done that the State would not have paid $3,000.

MR. BOONE—The gentleman might as well argue because a jury in one case gave so much that that would be an estoppel upon another jury. We all know that nothing of that kind occurs. What one legislature has done would not control another legislature.

Another point suggested to me since I began to speak. Could the legislature cease to make these appropriations from the public treasury and put the dependents on a pension list if the people desire it? It must be plain to all that it could not be done save by amending the Constitution. I think the argument made by the distinguished gentleman from Greene is conclusive. I have nothing further to say.

MR. WILLIAMS (Marengo)—I move the previous question on the original proposition, on the amendment and on the amendment to the amendment.

MR. JONES (Montgomery)—On that we ask the ayes and noes.

MR. SAMFORD—Not on the previous question.

MR. JONES—Not on the previous question, but when the vote is taken on the amendment.

The previous question was ordered, and the call for the ayes and noes sustained.

MR. HEFLIN (Chambers)—I rise to a point of paliamentary inquiry.

THE PRESIDENT—The gentleman will state the question of parliamentary inquiry.

MR. HEFLIN—What was the motion of the gentleman from Marengo?

THE PRESIDENT—The previous question upon all the amendments.

MR. HEFLIN—To the substitute.

MR. WILLIAMS (Marengo)—To the whole shooting-match, I don't know what you call it—the original question and all.

THE PRESIDENT—The question before the Convention is upon the amendment of the gentleman from Macon to the original article offered by the gentleman from Dallas as amended by the substitute offered by the gentleman from Montgomery.

MR. JONES—I would like to have that read before the Chair puts the question.

THE PRESIDENT—The Chair had not completed the statement—

MR. JONES—I beg pardon, I thought you were through.

THE PRESIDENT—The substitute offered by the gentleman from Montgomery was adopted and became embodied in the amendment offered by the gentleman from Dallas, and now the question is on the adoption of the amendment offered by the gentleman from Macon, and those favoring the adoption of the amendment—

MR. BROOKS—I rise to a parliamentary inquiry, my recollection is that the amendment offered as a substitute by the gentleman from Macon was adopted.

THE PRESIDENT—It was not. Now, then, for fear some gentleman should not understand the question, the chair will restate it. The question is on the adoption of the amendment proposed by the gentleman from Macon. The Secretary will read the amendment.

The Secretary read as follows: Amendment by Mr. Cobb. Strike out the words "it shall be the duty" and insert, "it shall be in the power of the General Assembly."

MR. COLEMAN (Greene)—I rise to a question of inquiry.

THE PRESIDENT—The gentleman will state the question of inquiry.

MR. COLEMAN—State to the Convention what will be the effect of the yea and nay vote now to be taken.

THE PRESIDENT—If a majority vote aye, the effect will be to adopt the amendment offered by the gentleman from Macon. If a majority vote no, the effect will be to defeat that amendment. We first vote upon the amendment offered by the gentleman from Macon (Mr. Cobb.)

MR. OATES—I ask that the substitute which has been adopted, with the amendment offered by the gentleman from Macon be read so we can see how it will be if that amendment is carried.

THE PRESIDENT—If the amendment offered by the gentleman from Macon be either adopted or rejected the question will recur upon the amendment offered by the gentleman from Dallas as changed by the substitute offered by the gentleman from Montgomery.

MR. OATES—I don't think the Chair understands the point. If the amendment of the delegate from Macon be adopted, how will the proposition read?

THE PRESIDENT—The Secretary will read the substitute of the gentleman from Montgomery and then read it as it will read with the amendment of the gentleman from Macon incorporated in it.

The Secretary then read the substitute offered by the gentleman from Montgomery.

Sec. 31. It shall be the duty of the General Assembly to make adequate provision for dependent members of the family of any sheriff, deputy sheriff, or member of any posse, who may be killed or permanently injured in defending any prisoner in the custody of the law."

If amended would read: "It shall be in the power of the General Assembly to make adequate provision for dependent members of the family of any sheriff, deputy sheriff, or member of any posse who may be killed or permanently injured in defending any prisoner in the custody of the law."

THE PRESIDENT—The question is upon the adoption of the amendment proposed by the gentleman from Macon, and those favoring the adoption of the amendment will say aye, and those opposed no, as their names are called.

The result of the roll call was as follows:

AYES.

Messrs. President,
Altman,
Bartlett,
Bethune,
Boone,
Browne,
Bulger,
Cardon,
Carmichael, of Colbert,
Caranathan,
Chapman,
Cobb,
Cofer,
Glover,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Howze,
Inge,
Moody,
Murphree,
Oates,
O'Neal (Lauderdale),
Opp,
Parker (Elmore),
Pearce,
Phillips,
Pillans,
Pitts,
Proctor,
Reynolds (Chilton),
Robinson,
Samford,

Coleman, of Greene,
Coleman, of Walker,
Craig,
Davis, of DeKalb,
Dent,
Espy,
Ferguson,
Fletcher,
Jackson,
Jones, of Bibb.
Jones, of Hale,
Kirk,
Kirkland,
Long, of Walker,
Lowe, of Jefferson,
Lowe, of Lawrence,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Searcy,
Smith (Mobile),
Sollie,
Spragins,
Stewart,
Tayloe,
Vaughan,
Waddell,
Walker,
Weatherly,
Williams (Barbour),

Total—68.

NOES.

Ashcraft,
Banks,
Barefield,
Beddow,
Blackwell,
Brooks,
Burnett,
Burns,
Byars,
Carmichael, of Coffee,
Cornwall,
Cunningham,
deGraffenreid,
Duke,
Fitts,
Foshee,
Foster,
Freeman,
Gilmore,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Hinson,
Hood,
Howell,
Jenkins,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Leigh,
Macdonald,
McMillan, of Baldwin,
McMillan (Wilcox),
Malone,
Martin,
Morrisette,
Norman,
Norwood,
O'Neill, of Jefferson,
O'Rear,
Palmer,
Parker (Cullman),
Porter,
Rogers (Lowndes),
Sanford,
Selheimer,
Sloan,
Smith, Mac. A.,
Sorrell,
Spears,
Thompson,
Watts,
Weakley,
White,
Whiteside,
Williams (Marengo),
Wilson (Wash'gton),
Winn.

Total—59.

ABSENT OR NOT VOTING.

Almon,
Beavers,
Case,
Davis, of Etowah,
Eley,
Eyster,
Greer, of Perry,
Hodges,
King,
Ledbetter,
Locklin,
Lomax,
Long, of Butler,
Maxwell,
Mulkey,
NeSmith,
Pettus,
Reese,
Renfro,
Reynolds, of Henry,
Rogers (Sumter),
Sanders,
Sentell,
Smith, Morgan M.
Stoddard,
Willet,
Williams (Elmore),
Wilson (Clarke).

Total—28.

During roll call:

MR. CASE—If I were to vote, I would vote no. I am paired with Mr. Rogers of Sumter; he would vote yea.

MR. PETTUS—I am paired with Mr. Sanders of Limestone; if he were present he would vote aye and I would vote no.

MR. LONG (Walker)—I have been absent for the last two days and I ask permission to introduce a short resolution; it is a very important one.

Ordinance No. 401, by Mr. Long of Walker:

Whereas, The platform adopted by the last Democratic State Convention on March 23d last, among other things pledged our faith "not to deprive any white man of the right to vote except for convention of an infamous crime," and also pledged "that Section 39 of Article IV of the present Constitution, with reference to the removal and location of the State Capitol shall remain unchanged."

And, whereas, editorials have appeared in a leading Montgomery daily paper to the effect that the pledges made in the last Democratic platform should not be binding upon the delegates to this Convention.

And, whereas, at a recent meeting of the State Press Association the representative of a leading Montgomery religious paper introduced and with the assistance of an editor of a Montgomery daily newspaper, had passed a resolution to the effect that the party platform was not and should not be binding upon the conscience or act of any delegate or member of the Constitutional Convention and further pledged the hearty support of the State press should the party platform be violated;

And, whereas, if it is expedient or right to violate one section of the party platform, it is equally right or just to violate another;

Therefore, be it ordained, by the people of Alabama in Convention assembled, that the State Capital be and is hereby removed from Montgomery to Birmingham, Alabama.

MR. LONG (Walker)—I ask that that ordinance be referred to the Committee on Consistency.

THE PRESIDENT—The gentleman asks that the ordinance will be referred to the Committee on Consistency, Order and Harmony and it is so referred.

The question recurred upon the original article as amended.

MR. HEFLIN (Chambers)—I move indefinite postponement of Section 31.

MR. WILLIAMS (Marengo)—I rise to a point of order, the previous question has been ordered.

MR. HEFLIN—I move to lay it upon the table.

MR. SOLLIE—I want to offer an amendment.

THE PRESIDENT—The previous question has been ordered.

MR. SOLLIE—But when amended, isn't it not a new proposition?

THE PRESIDENT—The previous question has been ordered and the motion to lie on the table is not debatable.

MR. HARRISON—I rise to a point of order. I desire to call the attention of the President to the precedent as laid down in rule 35 to lay on the table.

THE PRESIDENT—Yes, and the Chair would call the gentleman's attention to rule 26, motion to adjourn has precedence even of a motion to table, but the rules declare that even a motion to adjourn shall not be in order after the previous question shall have been ordered. It is in order at any time except after the previous question has been ordered. In this case the previous question has been ordered and the question now is on the adoption of Section 31 as amended.

MR. HEFLIN—I understood the gentleman from Marengo to call the previous question on the section and amendment to the section that has just been voted on.

THE PRESIDENT—He calls for the previous question on the question now submitted, and the—

MR. HEFLIN—Does the Chair hold that if some member moves the adoption of the Section as amended it would not be in order to lay the whole thing on the table?

THE PRESIDENT—The previous question has been ordered on the section as proposed by the gentleman from Dallas, and on the amendment offered by the gentleman from Macon. The question is on the adoption of the section proposed by the gentleman from Dallas as amended.

MR. COLEMAN (Greene)—A yea, vote adopts it, and a nay vote defeats the section?

THE PRESIDENT—yes.

A vote being taken, the section as amended was defeated by a vote of 63 nays to 62 ayes, on a division.

MR. SMITH (Mobile)—I desire to report on behalf of the Committee on Rules, a substitute for Resolution No. 166.

The report was read as follows:

Resolution No. 166, by Mr. Harrison, reported with a substitute favorably from the Committee on Rules:

Amend Resolution No. 166 by Mr. Harrison of Lee, so as to read as follows: "Resolved, That all speeches on amendments to ordinances reported by standing committees be limited to five minutes each, whether made before or after the order for the previous question."

The original resolution reads: "Resolved, That all speeches on amendments to ordinances reported by standing committes be limited to five minutes each."

MR. SMITH (Mobile)—I move the adoption of the substitute.

MR. OATES—I think that the rule is wise in some respects, and that discussion ought to be limited, but a restriction to five minutes for all speeches, in consideration of the measures to be adopted, is too limited. Now, for instance, any one having charge of a measure, the chairman or any member of a committee, has a right under parliamentary procedure always to a greater length of time to explain the propositions to be considered. That I do not think is to restrict the consideration of the sections; if it be, why then it is substantially the five-minute rule which prevails in committees of the whole in Congress; but even there, they are not absolutely restricted to five-minute speeches, except in this way: Five minutes is the limit which any member may speak upon an amendment he proposes, but if he has not finished his delivery within that time it is always in order for him to move a pro-forma amendment, as for instance striking out the last word of the section which gives him five minutes more. That is the five-minute rule proper. This seems to propose to confine all speeches to five minutes. Now, I am in favor of limiting speeches, I am in favor of shortening them, but there ought to be some exceptions. This seems to be too restrictive.

MR. JONES (Montgomery) — I desire to offer an amendment to the resolution.

The amendment was read as follows:

Amendment to the report of the Committee on Rules on Resolution No. 166: Provided the time expended in answering questions shall not be deducted from the member's time.

MR. JONES (Montgomery)—Mr. President, I heartily concur in the remarks of the gentleman from Montgomery. I believe we ought to have short speeches, but we have got some great questions here, and certainly the chairman of a committee ought to be permitted to speak more than five minutes on an amendment. For instance, the amendment may go to the whole question of

suffrage. I do not think it wise to tie ourselves up in that way,, and do not think any man can make a speech at all if he is to be continually interrupted and his time taken up in answering questions.

MR. SANFORD—Of all the assemblies that have met in Alabama in twenty-five years, or it may be will meet in the next twenty-five, this is the one in which the largest discussion ought to be allowed upon every important question that comes before it. Of all things, we do not wish to have the people gagged upon the questions that are of vast importance in establishing the organic law. We have been here they tell us thirty odd days, and we have accomplished but little. If we are to sit here sixty-five days, and accomplish not much more, perhaps the time may have been well spent, for next to doing good, doing nothing is the best thing that one can do, but of all things do not let the people be gagged upon this question of constitutional convention. Why is the gentleman from Lee so hurried now, as to the number of speeches that shall be made, and the time which shall be expended in discussing important questions? What evil comes of letting the people understand all things connected with every proposition that comes up here? Where has been the evil up to this hour? Why should we be so hurried now with regard to time? Why only five minutes Any man that can speak and elucidate any question of importance in that time ought not to speak at all, for he has nothing to say.

MR. OATES—Will my colleague from Montgomery allow a question?

MR. SAMFORD—Certainly.

MR. OATES—He stated very little had been accomplished. Did you ever see a body of men assembled who were better workers and worked more constantly than the delegates in this Convention?

MR. SANFORD—I have never seen an assembly more industrious, more conscientious, and not much more intellectual, anywhere in this country. Nobody has been more conscientious than this body; not more industrious than this body, and because of the great number of ordinances and resolutions that have been introduced is why so few articles have been adopted because of the difficulty of reconciling the different views of the delegates, and because of the importance of the questions that have been submitted. When I said little had been accomplished, I had reference merely to the completion of particular articles, and not to the fact that this body has been exceedingly and energetically industrious in the performance of their duties. I hope, therefore, gentlemen, that you will not now undertake to silence the Convention. Many men have changed their views after able arguments, that held different opinions when the arguments began. I

know it has been said by a great man that he has heard arguments that changed his opinion, but no argument ever changed his vote, but that is not true of this Convention. I have no doubt that the arguments made by some of these gentlemen upon the question which has just been decided, affected very materially the vote that has been given. It would have gone probably otherwise but for the discussion. I dare say you have arrived at a wise conclusion. We should not silence men upon questions which may not be discussed any more for twenty-five years. It is all important that they should be heard. I am in favor of limitations. I do not wish to speak for hours, or have men to speak to me for hours, upon immaterial issues, but upon questions of importance, let the discussion be free, full, learned, able, argumentative, everything that can convince the judgment of our people. I hope, therefore, that the resolution of the Committee on Rules will be defeated.

MR. WHITE—It does seem to me that there is no necessity to adopt this rule at this time. The five minute rule is sometimes adopted in legislative bodies that meet annually, or at shorter periods than a body of this kind meets.

MR. PETTUS—I would like to sak the gentleman a question.

MR. WHITE—Certainly.

MR. PETTUS—Have you ever known the five minute rule to be adopted in a legislative body except in the last three or four days of the session?

MR. WHITE—That is true, so far as I have heard, it is not done except at the close of the session.

MR. ROBINSON—Will the gentleman permit a question?

MR. WHITE—Yes, sir.

MR. ROBINSON—If it takes two weeks to adopt one Article of the Constitution, how long will it take to finish the work?

MR. WHITE—I will answer that. I think the gentleman from Chambers has talked about as much as any one else on that Article, and I leave it to him to say how long he will take on the others.

MR. ROBINSON—I am willing to stop talking now.

MR. WHITE—But there are a lot of us who have not talked any who don't want to stop.

Now I want the members of the Convention to think for a moment. We have here the previous question, that will cut off debate whenever a majority of this Convention desire to stop it; we have the right to move to lay on the table, which will cut off debate whenever a majority of the Convention so decide. Any

member of the Convention can bring into operation either one of these provisions, and we will not then tie our hands and not take up important measures which ought not to be discussed, and let them go undiscussed, and decide them wrong.

Now the question that has just been before the House illustrates the point and illustrates it well. Here was a proposition that was carried this morning by about eighty to fifty votes, but after a full discussion of the question the result was absolutely reversed. We were either wrong this morning and are right now, or else we are right now and wrong then, (laughter), or we are wrong now and were right then.

One of the gravest questions coming up is on the report of the Committee on Taxation. Questions of the gravest importance are coming up on the report of the Committee on Municipal Corporations, and I might mention almost every committee, and therefore, I think, Mr. President, and gentlemen of this Convention, that it would be exceedingly unwise and hasty to adopt this rule now.

MR. OATES—I wish to say I have not observed any case where any gentleman has abused the privilege accorded to him under the rules, by making too long a speech. They have generally been brief and to the point. The abuse intended to be corrected by limiting speeches, is to save time where they have a great many things to pass on, and some men are long-winded and disposed to consume too much time in speech making. I entirely concur with the gentlemen who have preceded me in saying that according to my observations, the discussions have been useful here. In fact, in my own case, there are some questions I have heard discussed here upon which I confess I have learned some things I did not know, and every gentleman should know everything important connected with the making of a Constitution. Now until the fact develops, and I do not believe that it will, that gentlemen are disposed to consume too much time in making speeches, do I see the necessity of this rule, and without intending any disrespect to my friend from Lee, who introduced the resolution, or to the Committee who have reported it, and without intending to cut off any remarks by any other gentleman if he desires to make any, I move that the report of the Committee too be laid upon the table; not voted down, but be laid upon the table where it can be taken up by the Convention and adopted whenever necessity occurs.

THE PRESIDENT—The gentleman from Montgomery moves that the resolution reported by the Rules Committee be laid upon the table.

MR. HARRISON—I ask the gentleman from Montgomery to indulge me for a moment to make a statement.

MR. OATES—Certainly I will.

MR. HARRISON—Before we commenced the consideration of the first report, I made a motion then limiting debate on amendments to five minutes. I thought from the size of this Convention, and from the great amount of speaking talent it contained, that we would never be able to comply with the enabling act unless some such limit was adopted. My speaking friends were opposed to it. I did not press it, nor do I personally care to press it now, save in the discharge of what I conceive to be my duty as a delegate, not to spend the summer and winter here in Convention assembled.

As has been well said by the gentleman from Chambers in his inquiry to the gentleman from Jefferson, if it has taken two or three weeks, I don't remember the exact time, to complete the consideration of the report of the Committee on Executive Department, pray tell me how long, under the same rules and circumstances, it will take us to complete action upon the reports of nineteen other committees?

Now I call the attention of the delegates to the fact that this limitation goes simply to amendments. It does not limit the debate, or change the rule so far as the decision on any main question is concerned, for or against it, but it is only to dispose of these amendments, and only limits the speeches for or against an amendment; upon the adoption or rejection of an ordinance it does not affect the present rule at all.

MR. JONES (Montgomery)—May I ask the gentleman a question. Would not an amendment very often bring up the main subject?

MR. HARRISON—Well, it might incidentally.

MR. JONES (Montgomery) — Take the suffrage question for instance and the grandfather clause; if some member moves to strike it out, or to put it in, would he be limited to five minutes under that resolution?

MR. HARRISON—If he moves to strike it out he would be limited to five minutes under this rule, and yet the whole clause, upon its adoption, those for or against it would not be limited, and it would bring a direct vote sooner upon the main proposition.

I submit, Mr. President, if it is the wish of this Convention that we are not bound by the enabling act; if it is the wish of the Convention that we think it is a duty we owe the State of Alabama to stay here and listen to these eloquent addresses from which we may learn something for the next six months, it is all right—

MR. OATES—Hasn't a great part of the time been consumed or has not the time been consumed chiefly in the Committee rooms preparing work to be brought in, and was it not perfectly natural

that the first report made and taken up for consideration should provoke more debate than almost any other important measure that will be brought before us?

MR. HARRISON—That is a matter of conjecture.

But it is to be presumed, and we ought to hope, and I did hope, that gentlemen would become satisfied with speaking, but it seems to me that gentlemen speak about as much as they did two or three weeks ago, and that they do not seem to be satisfied.

We may learn much, Mr. President. It is merely a business proposition that I desire to have the Convention to look upon the matter. We will no doubt learn something from the eloquent gentlemen here. We learned a great deal from them in debating on the Great Seal for the State. There was a great deal of the beauties of history set forth, and we have learned a great deal upon many questions, but to come down to a business proposition, do you intend to spend six months here? Unless you adopt this, or some other rule, which will reach it, but if you continue as you have been going on, amendment after amendment, as soon as one is passed something else is brought to us, if we adopt no limit, we will be unable to complete our duties within the time prescribed in the enabling act. Whether we are bound by the act or not, we are bound to the people of Alabama to get through with this work in a reasonable length of time—

MR. COBB—Do you understand that we are limited to fifty days here?

MR. HARRISON—I understand that we are limited at least to pay for fifty days.

MR. COBB—Very well. Can't we pay our own way, and isn't it better to do that for six months and make a good Constitution, than to adjourn hastily and make a bad one?

MR. HARRISON—I think, Mr. President, if we work a little harder and speak less, that we can get through in the time prescribed by the act.

MR. WILSON (Washington)—Will it not be within the power of the Convention to suspend the rules and lengthen the time for speaking at any time when the occasion seems to demand it?

MR. WHITE—It takes a two-thirds vote to do that.

MR. HARRISON—But it is very unpleasant to do that, and I submit that to do it takes up time.

MR. WHITE—And it takes a three-quarters vote—

MR. LONG (Walker)—In the interest of harmony, won't you make an exception, and provide that this rule shall not apply to Montgomery County? (Laughter.)

MR. HARRISON—Mr. President, I appreciate what other gentlemen have said, and perhaps there is a necessity for the proviso offered by my distinguished friend from Montgomery, who desires not to include in the five minutes the time consumed in answering questions. This may possibly demonstrate the utility of his amendment. I am not wedded to any particular form. I rather think the Rules Committee has improved my resolution as originally introduced. I only desire as the mover to state tersely my reasons for it, but its propriety it seems to me is made more patent to the delegates of this Convention by their own observation than anything I can say, and I simply desire to state briefly why I introduced it, and why I support it, and why I trust the Convention will adopt it, or provide something better. For one I feel we should take some action to expedite business here, and do more work and less talk.

MR. JONES—I do not believe there has been any member on this floor, with perhaps the exception of the Chairman of the committee having in charge the article which was recently under debate, who has spent more than he ought, or who has worried any member, or who has in any other way taken up any more of the public time than was necessary, perhaps with the exception of the numerous parliamentary points which have been made since we have sat here. I want to say this to my friend from Lee, that the Executive Committee was the first one that the Convention got an opportunity to get at. Naturally when they got through with them, their spurs are worn down, and a little dull, and they won't bother the other committees quite as much, and the idea that we are to make a limitation, because some gentleman gets a little restive about what the press say about us, and say that the delegates of the people of Alabama cannot speak but five minutes on an important question, it seems to me is unwise, and we are going to make a bad Constitution if we do it. Men are not going to speak when you do not want them to. You can make dissent; you can get them down, and I think we had better let this resolution take the course suggested by the gentleman from Montgomery. Half of our time has been taken up reading ordinances. I introduce a resolution, which was referred to the Rules Committee, some two or three weeks ago, in accordance with the practice here in the Legislature, and in accordance with the practice in Congress, to let members send resolutions up without calling the roll and asking to suspend the rules and all that, but the committee in its wisdom did not see fit to report it, and I do not quarrel with them, but the cause of half our trouble has been in reading of resolutions and ordinances, and the suspension of the rules and all that. We are not bound to finish in fifty days, but nobody wants to stay here that can help it. Nobody is making any money by being here, and I am afraid most of us are not making any reputation, but we have got a duty to perform, and I think we ought to perform it.

MR. WILSON (Clarke)—Mr. President, I think if we are going to have debate at all, we ought to have longer than five minutes. I do not think any question can be intelligently spoken to in five minutes. The amendment proposed by the gentleman from Lee does not help the matter. It is very probable that in nearly every case, the only time you will have an opportunity to change an article will be on the amendments, and when you propose an amendment, the policy of the article is going to be changed, because after this Convention has discussed an article, section by section, and has agreed upon it, it is not likely that this Convention is going to review the whole article just because some section does not please some of the delegates. The very point had occurred to me since this resolution was reported, which was made by the gentleman from Jefferson, Mr. White, that on yesterday, and also on this morning, this Convention was wrong on one proposition, the question of pensioning sheriff's families and after discussing it nearly all day they got right.

MR. JONES (Montgomery)—You got wrong this evening.

MR. WILSON (Clarke)—We go right. I think, Mr. President, if we are going to have any speeches at all, they ought to be longer than five minutes, and I think when the amendment is proposed, is the very time a speech, if it is effective at all, it is going to do good, and as has been said by some other gentleman, I have not seen that the privilege to speak has been abused to any great extent in this Convention by any gentleman here.

MR. SAMFORD—I see that the clock is within two minutes of adjournment. For the purpose of disposing of this matteer, I move that the rules be suspended and that we remain in session until we get through with this much any way.

There were some expressions of dissent.

THE PRESIDENT—Does the gentleman from Clarke yield to the gentleman from Pike to move to suspend the rules?

MR. WILSON (Clarke)—Yes, sir.

MR. SAMFORD—This thing is getting serious.

Upon a vote being taken, a division was called for, and by a vote of sixty-seven ayes to thirty-four noes, the rules were declared suspended.

MR. SAMFORD—I move that this Convention remain in session until the pending question is disposed of.

MR. JONES—And to order that this article be engrossed and put on its third reading tomorrow so that we can get rid of it.

MR. SAMFORD—I won't encumber it with that.

MR. JONES (Montgomery)—We have got to do it, and no one will make any fight on it.

MR. SAMFORD — I move we remain in session until the pending question is disposed of.

MR. WATTS—I understand the Chair to say that the vote was sixty-seven to thirty-four: Is that a two-thirds vote?

That is the way the Secretary figured it. The Chair cannot take the time to make the calculations.

MR. HEFLIN (Chambers)—I make the point of order that if those figures are correct, it is not a two-thirds vote.

THE PRESIDENT—The Secretary made the figures.

MR. WATTS—It takes seventy-four to make a two-thirds vote.

MR. CUNNINGHAM—The point of order comes too late.

MR. BROOKS—A point of order is never too late to correct an error of that kind. The figures stand for themselves.

MR. deGRAFFENREID—I call for a verification of the vote.

MR. WILLIAMS—The Chair had announced the vote, and other business had been transacted before the point was raised.

MR. deGRAFFENREID—We call for a verification of the vote.

THE PRESIDENT—It seems to the Chair that the point of order comes too late.

MR. BROOKS—Will the President indulge me a moment. We did not know what the decision of the Chair was until it was made—

The President—The Chair made the decision, however, and entertained another motion, and the Convention had proceeded to other business, and it is, therefore, too late to go back and make a point of order on the original question.

MR. SAMFORD—I make the motion that I made awhile ago, that the Convention remain in session until the pending question, which is the report of the Committee on Rules, is disposed of.

MR. JONES—Won't the gentleman allow a formal order to engross this article in order that it may be put upon its third reading?

MR. SAMFORD — I have no objection to the order being made.

THE PRESIDENT—Does the gentleman ask unanimous consent that it be done?

MR. JONES (Montgomery)—Yes, I do. It is to get rid of the thing.

THE PRESIDENT—The gentleman from Montgomery asks unanimous consent for the engrossment of the report of the Committee on Executive Department; is there objection? The Chair hears none and it is so ordered.

MR. HOWELL—Allow me in connection with that order to move that the Chairman of the Committee on Executive Department see that the bill is correctly engrossed before it is read a third time and passed. We have no committees on enrolled and engrossed bills, and somebody ought to be authorized to see that it is correctly engrossed, because, with the various amendments it is very easy for the engrossing clerk to put them sometimes in the wrong place.

MR. PITTS—I make the point of order there is already a motion pending before the House.

MR. DUKE—I move to amend the motion of the gentleman from Pike. There are a good many committees to meet this evening at half past five, and I move to amend the motion by moving that this Convention remain in session until not later than half past five.

Upon a vote being taken the amendment was lost. A division being called for, the original motion, by a vote of sixty-seven ayes and thirty-eight noes was carried.

MR. WILSON (Clarke)—It is urged by some of the delegates in favor of this five minute rule, that the Convention could suspend the rule for any delegate if he desired the floor longer than that. That is one of the reasons I am opposed to it. It would take more time to suspend the rules, and to vote on suspending the rules to determine whether the delegate be allowed to go over the time, than to go on and get through, in this way. I believe, as has already been expressed, that in most of the articles which are to follow, unless it be the suffrage and education, there will not be much discussion as there has been upon this article. As was expressed by the gentleman, I believe from Chambers, Mr. Robinson, the animals were hungry when this article was brought in and they chawed on it longer in my judgment than they will hereafter.

When the pending question is disposed of, I am going to offer an amendment which I think will not be in order now, to strike out, "five minutes" and make it "fifteen." I believe few gentlemen would care to speak longer than fifteen minutes, and for those who do care to speak longer than that the Convention could extend the time. I believe that will be a better adjustment of the question than the five-minute rule, or the present rule of 30 min-

utes. The limitation now is that no member shall speak but once on any question, and may not speak longer than 30 minutes and we might change that to not longer than fifteen, and not permit any delegate to speak but once on any question. With the previous question motion in order, which may cut off debate, and motion to table to cut off debate, it seems to me fifteen minutes would limit debate as short as it should be limited.

MR. SMITH (Mobile)—The Rules Committee have brought in this resolution, after the question had been presented and suggestions made by a large number of delegates. This was done not once, but a number of times. The Rules Committee at first declined to bring in the report, or failed to act in the matter until it was presented quite a number of times, and it became convinced that there was a feeling in the Convention that something ought to be done to limit the debate, and enable the Convention to proceed with its work. The committee has now brought it in in conformity with what it believed to be the wish of the Convention. It has no special desire upon its part, as a committee, to limit the debate, and if it is the wish of the Convention that this resolution be not adopted, it will be satisfactory to the committee.

Personally, however, it does not seem to me that the argument that has been made against it is a sound one. One of the gentlemen says that these questions ought to be discussed fully, and I agree with the gentleman. He says that the broadest opportunity for discussion should be given in this Convention on every question, and I fully agree with him, but I differ with him as to what an opportunity for the broadest discussion consists of. Another gentleman says if we desire to limit this debate, we can always do that by the previous question; that we have heretofore done it, and done it effectively. I agree with this gentleman and yet I doubt the correctness of the conclusion.

I think a full debate by every member of the Convention who desires to speak, is advisable, and advances the public welfare and the interests of the State. I think it is better that every man who wants to speak should have an opportunity to speak five minutes than that a coterie should have an opportunity to speak just as long as they choose to (applause) and until the Convention gets tired and shuts off the gentleman, as the gentleman from Jefferson has said.

That is the way it seems to me it has been fully debated. A few gentlemen have talked until the balance have got tired and somebody has stopped the proceedings by the previous question, and shut off other gentlemen on the question who are not so brave in asserting their rights. I therefore believe that if we would try the five-minute rule a day or two, the majority of the Convention would find it agreeable.

MR. BROOKS—Mr. President, I am not in the habit of making speeches frequently, and I do not think I make very long speeches so that personally I have not very much interest in this question, but it does seem to me that at this stage of our proceedings we ought not to limit ourselves by a hard and fast rule, but that we ought to be guided by the circumstances and if an emergency happens, then we might change the rule for the time being, by going into a committee of the whole, and having five-minute speeches or something of that sort, but where we have only debated one article in the Constitution, and we have coming before us matters of the greatest importance, upon which very few men can express themselves elaborately and properly and condensedly in five minutes. I think that a liberal opportunity ought to be given to discuss the great questions that will be pending before this Convention before long. Perhaps not to the extent that we have discussed the article on the Executive Department, but certainly to give it such consideration as it deserves. Now for instance, here is the question of taxation, a very important matter; the question of suffrage, the bone of contention in this Convention, and then the very committee of which the gentleman from Lee is Chairman, the Committee on Corporations, I would like to hear from before the debate is limited to five minutes because I do not know what they may report, or what they may not report, and it may require more than five minutes to speak to bring before the Convention in an elaborated form such facts, figures aid arguments as are necessary to intelligently discuss such a question. Therefore, it seems to me that at this early stage of the proceedings we ought not to encumber ourselves with a hard and fast rule, which can only change from time to time by the proposition of suspending the rules, which at all times is an awkward method of procedure. I hope therefore that the resolution reported by the Committee at the present stage of our proceedings will not pass, and if I am in order and no other gentleman proposes to discuss the question, I move to lay it on the table.

MR. COLEMAN—Mr. President—

THE PRESIDENT—Does the gentleman withdraw the motion to table?

MR. BROOKS—No sir, I have not withdrawn it.

THE PRESIDENT—The motion of the gentleman from Mobile was to lay upon the table—

MR. OATES—I will ask the delegate from Mobile to withdraw the motion temporarily.

MR. BROOKS—I have had no request from any one to withdraw it.

MR. OATES—The delegate from Greene is the Chairman of the Suffrage Committee, and he ought to be heard.

MR. BROOKS—If the gentleman from Greene desires to ask its withdrawal, I withdraw it, with the expectation it will be renewed immediately afterwards.

MR. COLEMAN (Greene)—I have only a few words to say, Mr. President, upon this question, and I started to say that all speakers know how embarrassing it is to be limited to a fixed time; they hardly know how to express their ideas, or what to say. Now the argument has been made here, and the question asked often, if it has taken us all this time to adopt the first article, how long will it take us to adopt the remainder of the articles of this Constitution. I might retort by saying that if the gentlemen have read the report of the Committee on Banking they will see that Committee's report is exactly as it is in the old law, with the addition of a single exception, and the probability is that we will not consume a day upon that article. I can retort that if you consume only one day, or a half a day, in adopting the article on Banking, as a matter of course you would be a very short time on the balance of them. It depends altogether upon the questions involved, and, Mr. President, there are some questions which are going to arise before this Convention that no man can discuss within five minutes. It would be utterly impossible to do justice to many great subjects that are coming up before us, and the motion of the delegate from Montgomery that it lie upon the table, to be called up at any time, is exactly in point, it seems to me. It is under control of the delegates of the Convention to be called up and put in force at any moment when needed, and I therefore renew the motion, if it be in order.

The motion that the resolution as reported by the Committee lie upon the table to be taken up by the Convention at pleasure was carried upon a division, by a vote of 78 ayes to 28 noes.

And the Convention thereupon adjourned until tomorrow morning at 10 o'clock.

THIRTIETH DAY

MONTGOMERY, ALA.,
Wednesday, June 26, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by the Rev. Mr. Elliott, as follows:

Our Father, we are brought under renewed obligations to Thee this morning, and we have come into Thy presence to thank Thee for Thy good providence that has been over us during the

night. For the light of another day. We pray that Thou wilt be with us this morning as we begin this day's work and may we glorify Thy name in all our efforts. We thank Thee, our Father, for the large degree of kindness with which Thou art blessing the people everywhere. We thank Thee for the efforts that are being made for the promotion of the country, for the leading of men up from lives of base ingratitude to lives of morality, wisdom and goodness. We pray Thee, our Father, to be here today, and bless this Convention; grant that there will be a spirit of unanimity, a spirit of harmony and co-operation here. We pray for Thy richest blessings upon the presiding officer. Give him wisdom and strength and grace and patience that he may discharge his duty in the fear of God. Bless each member of this House. Surround them, our Father, with the very best of circumstances, and grant unto them strength, and all that they need here. Be with us now, and guide us by Thy spirit and uphold us by Thy power, we ask for Jesus' sake. Amen.

Upon the call of the roll 141 delegates responded.

LEAVES OF ABSENCE

For Mr. Vaughan for today; Mr. NeSmith for today and tomorrow; Mr. Davis (Etowah) for today.

The report of the Committee on the Journal, stating that the Journal for the twenty-ninth day of the Convention had been examined and found correct, was read and adopted.

MR. REYNOLDS (Chilton)—I want to make a correction in the report of yesterday's proceedings. I am recorded as having voted for Judge Cobb's amendment last evening. I was not present at the time that vote was taken, but I had voted all the way through for the substitute offered by Mr. Jones, the chairman of the committee, and would have voted for his substitute had I been present, and not Mr. Cobb's amendment. I understand that I am recorded correctly on the Journal.

THE PRESIDENT—The stenographer will make the correction in the report.

MR. CARMICHAEL (Coffee)—I desire to make a correction in the stenographic report. I am reported as having voted aye on the motion to table the amendment or substitute offered by the gentleman from Montgomery, the chairman of the Committee on Executive Department, whereas I voted no; and my brother from Colbert voted aye, and the stenographers have our names transposed, and have him recorded as voting no and myself as voting aye, whereas it was exactly opposite.

The roll of Delegates was called for the introduction of ordinances, resolutions, etc.

MR. GREER (Perry)—I offer a petition.

THE PRESIDENT—The Chair will call the attention of the gentleman from Perry that petitions are only read before the Convention when the Convention consents to have them read. Is a motion made for that purpose?

MR. GREER (Perry)—I move that the rules be suspended and that the petition be read.

THE PRESIDENT—It will not be necessary to suspend the rules, because the petition will be in order, but it is necessary to have a vote that it be read. Does the gentleman enter a motion to that effect?

MR. GREER—I move that it be read, then.

MR. CARMICHAEL (Coffee)—We would like to know what it relates to before it is read to know how to vote.

MR. GREER (Perry)—It is very short. Only half a dozen lines. .

MR. CARMICHAEL (Coffee)—What does it relate to?

MR. GREER (Perry)—It relates to the election of Railroad Commissioners.

Marion, Ala., June 24, 1901.

To Messrs. J. H. Stewart, C. H. Greer and W. H. Tayloe, Montgomery, Ala.:

Gentlemen—We, your petitioners would respectfully represent that, in this era of combinations and consolidations of railroads and railroad interests, competition in freight rates is fast disappearing, and we, realizing the fact that the Constitutional Convention should provide in the organic law a remedy against exhorbitant freight rates within the limits of the State of Alabama, therefore, we earnestly ask you as our Perry County representatives in said Convention, to actively advocate and support the ordinance providing for the better regulation and control of railroad tariffs and passenger rates by the State Railroad Commissioners; that said Commissioners be elected by the people; that their salaries be paid out of the State Treasury, and that they be given the power to enforce their orders and decrees.

Respectfully submitted.

MR. REESE—Will the names attached to the petition be printed in the stenographic report?

THE PRESIDENT—The petition does not seem to be addressed to the Convention but to the delegate from Perry.

MR. REESE—I move that the petition and the names be printed in the stenographic report of the proceedings.

THE PRESIDENT—It will be printed, having been read before the Convention.

MR. REESE—The names also?

THE PRESIDENT—The whole petition.

The names signed to the petition were as follows:

J. A. Nichols, A. I. Wolly, J. H. Tucker, R. H. Fitzgerald, Fitzgerald & Tubbs, R. M. Eatman, W. A. King, W. M. Higgins, J. C. Mickleford, D. J. Ballard, C. J. Ballard, W. G. Ballard, H. C. Smith, W. C. Martin, A. N. Hudson, B. N. Huey, W. F. Moore, H. Y. Howze, John Howze & Co., W. H. Smith, S. Perry, M. D., B. M. Lide, J. D. Smith & Co., Wilkerson Drug Co., C. A. Wilkerson, J. A. Moore, Pres., Marion Central Bank, Reed & Shivers, S. E. Williams, R. E. Wynn, J. B. King, W. A. Johns, T. F. Evans, R. T. Scarborough, W. H. Perkins, T. B. Ballard, J. B. Lockhardt, R. A. West, Shellman Brothers, J. T. Washburn, T. M. Howze, T. J. Fryer, W. C. Cunningham, L. L. Lee, S. A. Matthews, M. Lovelace, D. W. Dobbins, L. S. Evans, C. E. King, Jr., C. C. Crowe, M. H. Williamson, A. P. Willborn, G. W. Pollard, Jr., E. Goree, C. J. Blackburn, E. M. Blackburn, J. A. Hendricks, Marshall Hendricks & Co., J. C. Moore, C. H. Dozier, Wm. H. Mason, Jr., Jas. Gregory & Son, Chapman & Abernathy, W. C. Martin, W. M. Ford, A. W. Moore, J. R. Poole, C. L. Barker, Jr., T. H. Barker, George Steffin, T. J. Davis, J. T. Fitzgerald, Cashier Marion Central Bank, E. P. George, J. B. Shivers, J. W. Smith, R. H. Evans, clerk Circuit Court.

MR. O'NEAL (Lauderdale)—I desire to call the attention of the Convention to some errors in the stenographic report of the report of the Committee on Local Legislation, in the proceedings of Saturday. On the second column, after the words "passage of local acts," it should be "regulating these matters," the balance of the sentence is left out; it ought to be "to the local authorities and forum which can best appreciate and understand local necessities and demands." And also at the bottom of the page, "we have endeavored to safeguard by proper restrictions" ought to follow, and the words "local necessities" and the balance stricken out. And the next two lines ought to be stricken out.

THE PRESIDENT—The correction will be made as requested.

Resolution No. 191, by Mr. Howell.

Resolved, That when an article of the Constitution has been passed by this Convention and ordered engrossed or enrolled, the chairman of the Committee who reported the article, be appointed and requested to see that the article is correctly engrossed or enrolled as the case may be.

MR. HOWELL—We have come to the period in the history of this Convention when the articles are being passed, and are ordered to be engrossed and enrolled, but no provision has been made for the correctness of the enrollment, and it occurs to me it would be better for the chairmen of the different committees, after the engrossment or enrollment of these bills or articles, to examine them, or have them examined, to see that they are correctly engrossed and enrolled. It might possibly save a great deal of trouble hereafter to have somebody authorized to see that they are correctly enrolled, and as this is a plain proposition, I move a suspension of the rules that this resolution may be put upon its passage.

Upon a vote being taken the rules were suspended and a further vote being taken the resolution was adopted.

MR. REESE—I desire to give notice that I saw the Convention was going to adopt the resolution, but I do not think anybody knew it was. I voted in the affirmative, and give notice I will make a motion to reconsider it after I find out what it is.

Ordinance No. 402, by Mr. Mulkey:

Amend Section 2, Article X of the Constitution:

Be it ordained by the people of Alabama in Convention assembled that Section 2 of Article X of the Constitution be amended by adding after the last word thereof, the following:

Provided that executory contracts in writing for the sale of homesteads, signed by the husband and wife, and acknowledged by the wife, as in the case of conveyances of the homestead, shall be valid and may be enforced.

Referred to Committee on Exemptions.

Resolution No. 192, by Mr. Rogers (Lowndes):

To amend Rule 36 so as to read:

The ayes and noes shall only be ordered when the call therefor is sustained by fifty delegates.

MR. HEFLIN (Chambers)—I move to lay it on the table.

THE PRESIDENT—It is not in order to do so at this time. The question is not up for consideration. It will be referred to the Committee on Rules.

MR. SMITH (Mobile)—I desire to return Ordinance No. 305, referred to the Judiciary Committee, and ask that it be referred to the Committee on Exemptions.

The reference was changed as requested.

Ordinance No. 403, by Mr. Winn:

Be it ordained by the State of Alabama, in Convention assembled, that the Railroad Commissioners of Alabama shall have plenary power in all matters pertaining to the discharge of their duties and their salaries shall be paid by the State; provided the railroad shall have the right to appeal to the courts from the decisions of said Commissioners whenever they deem such decisions oppressive.

Referred to Committee on Corporations.

A petition was offered by Mr. Winn.

THE PRESIDENT—The Chair will state that no motion has been made for the reading of the petition.

MR. WINN—I just ask that the petition be read without the names which are attached to it. The petition is very short.

The petition was read as follows:

Clayton, Ala., June 24.

To the Honorable Constitutional Convention, Montgomery, Ala.

Dear Sirs:—We respectfully represent that whereas the Railroad Commission appointed by the Governor and paid by the railroads has proven an entire failure; and whereas the shipper and consumer should have some representation in the naming of rates and making of rules by what is otherwise alien and arbitrary power. That, whereas, the Express, Telephone, Telegraph and Railroad Franchises are given by the State, the power of these franchises to tax should be limited by the State. We therefore request that your Honorable Body will give the State a Commission, elected and paid by the people and place all franchises, which have power to tax, within their review.

W. H. Pruett, Judge of Probate; T. R. Parrish, President Clayton Banking Company; O. B. Pruett, Cashier; M. M. Stricklin, jeweler; J. T. Martin, merchant; J. R. Ventress, merchant; S. Reynolds, merchant; T. R. Parrish & Bro., mechants; D. H. Blair, dispensary; E. P. Thomas, Mayor; G. W. Peach, attorney; L. H. Lee, editor; John C. Williams, J. P.; J. B. Lasseter, ex-Sheriff; M. J. McCinny, Clerk Circuit Court; M. H. Parrish, J. B. Farrior, fertilizer dealer; J. D. Farrior, merchant; J. E. Meadows, cashier Citizens' Bank; A. Bernheim, live stock dealer; B. T. Roberts, Tax Collector; Britt & Co., merchants; W. D. Martin, bookkeeper; J. F. Sneed, farmer; D. E. Nix, J. M. Nix, Andrews & Martin, J. W. White & Bro.; Slocomb & McPherson, J. P. West & Co., O. B. & J. L. Pruett.

MR. BROOKS (Mobile)—I rise to ask that the clerk will read a little slower. We hear his voice, but cannot hear his enunciation.

MR. ASHCRAFT—I have a communication here of similar import I would like to present at this time. I do not care to have it read.

THE PRESIDENT—Both petitions will be referred to the committee on corporations.

MR. ASHCRAFT—I will state there are several papers there, that are identical except as to the signatures. I do not think it is necessary for the stenographic report to contain a repetition of the language, which is identical, but just the signatures, which are different; it is all intended as one petition.

The petition offered by Mr. Ashcraft and the names attached were as follows:

Florence, Ala., June 14, 1901.

To the Honorable Constitutional Convention, Montgomery, Ala.

Dear Sirs:—We respectfully represent that whereas the Railroad Commission appointed by the Governor, and paid by the railroads, has proven unsatisfactory, and whereas the shipper and consumer should have representation in the naming of rates and making of rules, inasmuch as these rules and rates are made at present wholly by alien and arbitrary power, and whereas the railroad franchises are given by the State the power of the franchises to tax, should be limited by the State.

Resolved, We, therefore request that your honorable body will give the State a Commission elected by the people, appointed by the Supreme Court or appointed by the Governor of the State and paid by the people, and to place all railroad franchises within their review with full power to act. Respectfully,

H. P. Lucas, J. S. Kilburn, F. E. Hazen, Sullivai & Harper, W. S. Douglass, Garner & Embry, J. W. Somer, Florence Machine Works, J. C. Thigpen, L. P. Kinney, George Young, C. W. Ashcraft, Lee Ashcraft, E. Ashcraft, A. A. McGregor, T. H. Allen, M. J. Dillard & Co., Edgar James, Mark Reisman, Andrew Brown, A. Brown & Son, J. Milner & Son, F. J. Bond, Cherry & Sticknell, C. M. Watson, W. H. Cromwell, N. B. Shelton, Frank Jackson, W. M. Bunting, A. E. Bresler, R. M. Bollings, C. H. Jones, A. D. Bellamy, E. Lynn, The People's Exchange, James Hood, P. A. Patrick, W. T. Johnson, C. A. Sullivan, T. J. Phillips, Mitchell Bros., John B. Kilburn, J. W. Boley & Co., H. S. Boley, Mathews & Johnson, H. M. Raney, J. A. McKiney & Co., R. L. Carr & Co., W. W. Killburn, C. Reynolds, Chapin Ice & Coal Co., A. Smith, L. C. Hudson, W. B. Ballentine, Crow Bros., Lauderdale Produce Co., T. E. Berry, J. H. Blair, F. M. Perry, John W. Hall, W. M. Richardson, C. M. Southall, R. A. Rogers.

MR. BANKS—I have a similar paper which I desire to have referred.

The petition was referred to Committee on Corporations, and was read as follows:

Pittsboro, Ala., June 19, 1901.

To Hon. W. H. Banks and B. L. G. Waddell, Representatives of Russell County, Alabama, to the Constitutional Convention:

Gentleman—We, the undersigned, respectfully beg and plead with you to do all in your power to have passed the bill which has been introduced that provides for the election by a vote of the people for the office of Railroad Commissioner.

J. W. Caldwell, J. Q. Evans, S. B. Pitts, H. B. Pitts, W. H. Pitts, B. R. Pitts,, A. L. Johnson, F. P. Pitts, Geo. W. Lewis, John J. Martin, E. D. Rutherford, J. C. Joiner, W. M. Burt, W. T. Joiner, M. D., W. A. Russell, E. C. Perry, H. L. Hatcher, W. T. Henderson.

MR. JONES (Montgomery)—By inadvertance my name was called so fast that I did not answer. I would like to have leave to introduce a resolution now.

The leave was given.

Resolution No. 193 by Mr. Jones (Montgomery.)

Resolved, That an additional article be incorporated in the constitution, as follows:

ARTICLE ——

Section 1. When any person in the custody of a sheriff or other lawful officer, is lawlessly taken, or attempted to be taken, from the custody of such sheriff or other officer by a mob or other lawless assemblage, for the purpose of putting such person to death or great bodily harm, and any sheriff, or other officer, or any member of any posse, is killed or injured, in protecting or attempting to protect such prisoner, the county in which such lynching occurs or is attempted, shall be liable in damages to the sheriff, or other officer or member of the posse, if they survive their injuries, or to their legal representatives, in case of their death. Any county made liable under this section, shall have a right of action over against either or all of the persons taking part in such mob or lawless assemblage.

Referred to Committee on Executive Department.

On a call of the standing committees the Committee on State and County Boundaries submitted a report, which was read as follows:

Report of the Committee on State and County Boundaries:

Mr. President—The Committee on State and County Boundaries, to which was referred resolution No. 75, introduced by

Mr. Parker of Elmore, beg leave to report that they have considered the same, and recommend its adoption.

Said resolution is returned herewith.

George H. Parker.

Chairman of Committee Upon State and County Boundaries.

Resolution—

Whereas, the General Assembly of Alabama passed an act, approved March 4th, 1901, entitled "An act to provide for the annexation of West Florida to the State of Alabama," with the consent of the State of Florida and the Congress of the United States; and whereas, the Governor of Alabama has in pursuance of said act, appointed as Commissioners on the part of Alabama Hons. Wm. L. Martin, Richard C. Jones and Samuel Blackwell, to confer with a like Commission on the part of the State of Florida, which Commission is empowered to do and perform all acts necessary and requisite to perfect an agreement for the cession of said territory to the State of Alabama, to be ratified and confirmed by the Legislature of Alabama and approved by the Governor.

Now therefore, be it resolved, that this Convention hereby ratifies and indorses the purposes of said act and the appointment of said Commission.

Resolved, further, that we approve of the annexation of the territory described in said act, to the State of Alabama in the manner set forth herein;

Resolved, further, that we commend the distinguished Commission on the part of Alabama to a painstaking and patriotic effort in consummating liberal terms for the cession of said territory, and recommend such other action by the Legislature of Alabama and the Congress of the United States as may be necessary.

MR. PARKER (Cullman)—I move that the rules be suspended and that the resolution reported by the Committee be put upon its passage at once.

Upon a vote being taken the rules were suspended.

MR. SAMFORD (Pike.)—Pardon me, but I just want to know if that was in reference to our buying west Florida that we are voting on?

THE PRESIDENT—It is on the adoption of the resolution.

MR. SAMFORD (Pike)—With reference to taking that part of west Florida?

MR. SOLLIE—I did not catch the reading of it, not being aware that the resolution would come up so soon for consideration,

and I do not know what was in it. I would be glad to have it read again if it is not too long.

The resolution submitted by the Committee was read again.

THE PRESIDENT—Complaint is made by delegates that they do not hear the reading of papers from the desk. It seems to the Chair that the reading clerk reads distinctly, and if the delegates would pay attention they would hear.

MR. WHITE—I suggest hereafter when a gentleman makes a complaint of that kind, that the Chair ask him if he has listened.

MR. JONES (Montgomery)—I rise to a point of parliamentary inquiry.

THE PRESIDENT—The gentleman will state the question of inquiry.

MR. JONES (Montgomery)—I would like to move, if there is no objection, that the article on Executive Department be ordered to a third reading.

THE PRESIDENT—The report submitted by the Committee on State and County Boundaries has not been concluded. The Chair will recognize the gentleman from Montgomery at the conclusion of the reading of the report.

MR. HEFLIN (Chambers)—I want to suggest that it takes up a good deal of time to have resolutions read over and over again, and that when a gentleman sends a resolution to the clerk's desk, if he will make a statement that he intends to move a suspension of the rules, it will call the attention of delegates to the resolution, and it will not have to be read again.

THE PRESIDENT—The Chair thinks the suggestion of the gentleman from Chambers is a very good one. Of course there are sometimes matters read from the Clerk's desk, which are merely to be referred, and members do not give the strict attention to the reading that they would if it was known that a motion was going to be submitted to suspend the rules, and place the resolution upon its passage.

The report of the Committee on State and County Boundaries was thereupon read as follows:

State of Alabama,
Constitutional Convention, 1901.

Report of the Committee on State and County Boundaries.

Mr. President:

The Committee on State and County Boundaries instructs me to report herewith an ordinance to take the place of the article in the present Constitution on the subject.

All of the ordinances and resolutions submitted to the committee have been carefully considered. The principles of some of the same have been incorporated in the article. These ordinances and resolutions are herewith respectfully returned.

The material changes in the article reported are as follows:

To the first section as to the boundaries of the State is added a proviso, so that if circumstances should be propitious, the limits and jurisdiction of the State would extend over any land or territory hereafter acquired.

In this connection, we have reported favorably a resolution giving the support of this Convention to the Commissioners appointed under an act of the last Legislature as to the matter of the connection of a certain part of Florida to this State.

Section 2 of the present Constitution has been divided into several sections so as to make each provision therein clear and definite.

The boundaries of the counties under Section 3 can only be changed by an act of the Legislature passed by a majority of the members elected to each house thereof, and a two-thirds vote of the qualified electors, within the proposed territory to be taken from one county and added to another.

New counties can only be created in like manner.

No county line shall be changed so as to run within seven miles of the Court House of any old county.

No county site can be removed without a two-thirds vote of the qualified electors voting at an election held for such purpose; and elections for such purpose can only be held once in every four years.

The area of counties has been reduced from six hundred to five hundred miles.

The county site of Shelby county, by proviso to Section 6 is fixed at Columbiana until changed by the vote of the people. There is an act of the General Assembly of Alabama approved the 9th day of February, 1899, and an act amendatory thereto, approved the 20th of February, 1899, providing for an election to fix the permanent location of the county site of Shelby county, and the benefit of such an election could be had at any time within four years from its approval. Without seeking to have an election under these acts, a bill was passed through the last Legislature, changing the county site from Columbiana to Calera. After a patient and careful investigation of the manner of the passage of this bill it was evident to a majority of the committee

First—That only one member of the House could be found who knew of the existence or passage of the bill, and that member was the originator of the same.

Second—No officer of the House had any independent recollection of the bill.

Third—The bill was kept off from the calendar of the house and out of the newspapers.

The bill was passed regularly in the Senate, during its last day, and was on its calendar, but so late that no one in Shelby county except those interested in its passage, knew anything about it until after the adjournment of the Legislature. The result is that this act was passed by wrong methods without the knowledge of the members of the House, and the county site changed, without the consent or knowledge of the people of Shelby county. It is conceded, in our judgment, that the courts cannot go behind the journals. The people of that county are therefore left without a remedy unless this Convention grants it to right the above wrong, and as an act of justice to the people of Shelby county the committee is of the opinion, and it is their judgment, that said county site should remain at Columbiana unless changed by the vote of the people of that county. We return the evidence heard before the committee.

Upon some portions of the article some of the members dissent and reserve the liberty of action.

George H. Parker, Chairman.

Minority report of the Committee on State and County Boundaries:

Mr. President,

We the undersigned members of the Committee on State and County Boundaries do not concur with the majority in that part of Section 6 which refers to the Shelby county Court House. And we offer as an amendment to Section 6 of the majority report that all part of Section 6 which refers to the Shelby county Court House be stricken out.

J. O. Sentell,
J. A. Gilmore.

The undersigned member of the Committee on State and County Boundaries does not concur in the report of the committee as to Sections 2, 3 and 4, and he offers as substitute therefor the following:

Sec. 3—The boundaries of the several counties of this State as heretofore established by law, are hereby ratified and confirmed. The General Assembly may by a vote of two-thirds of both Houses thereof arrange and designate boundaries for the several counties

of this State, which boundaries shall not be altered, except by a like vote; but no new counties shall be hereafter formed of less than six hundred square miles and no existing county shall be reduced to less than six hundred square miles; and no new county shall be formed which does not contain a sufficient number of inhabitants to entitle it to one representative under the ratio of representation existing at the time of the formation, and leave the county or counties from which it is taken with the required number of inhabitants entitling such county or counties to separate representation.

Respectfully submitted.

Milo Moody,
C. H. Miller.

MR. PRESIDENT—The undersigned respectfully dissent from that part of the report of the committee herewith filed which reduces the Constitutional area of a county below 600 square miles.

After a careful and painstaking investigation from every avenue of information, we are forced to the conclusion that any change reducing the area of the old counties below the present Constitutional limit would be a source of political strife and dissension in many parts of our State and endanger if not defeat the ratification of the proposed Constitution. We base this conclusion upon the following premises, which we think are indisputable:

First—This question was not an issue in the campaign except to a very limited extent.

Second—The sentiment of the people is divided, but largely against reduction.

Third—In most of the counties the tax rate is already up to the Constitutional limit, hence any reduction of the old counties would decrease their revenues, interfere with the harmony and autonomy of the same, destroy their symmetry and arouse influence against ratification which under normal conditions would be in favor of ratification.

We do not object to a reduction to some extent of the area of the counties hereafter to be formed, with such other restrictions as would be beneficial to the maintenance of the same.

We therefore move to amend the report of the committee by striking out "five hundred" where it occurs in Section 3 and adding in lieu thereof the words "six hundred."

Respectfully submitted,

J. E. Cobb,
John H. Parker,
E. C. Jackson.

An ordinance to create and define the State and County Boundaries, and to regulate the location of County sites, and the formation of new counties.

Be it ordained by the people of Alabama in Convention assembled, that Article Two of the Constitution be stricken out and the following article inserted in lieu thereof:

ARTICLE II.

State and County Boundaries, County Sites and New Counties.

Section 1.—The boundaries of this State are established and defined to be as follows, that is to say: Beginning at the point where the 31st degree of north latitude crosses the Perdido River, thence east to the western boundary line of the State of Georgia; thence along said line to the southern boundary line of the State of Tennessee, thence west along the southern boundary line of the State of Tennessee crossing the Tennessee River and on to the second intersection of said river by said line, thence up said river to the mouth of Big Bear Creek; thence by a direct line to the northwest corner of Washington County, in this State, as originally formed; thence southerly along the line of the State of Mississippi to the Gulf of Mexico, thence eastwardly, including all islands within six leagues of the shore to the Perdido River; thence up said river to the beginning; provided that the limits and jurisdiction of this State shall extend to and include any other land and territory now acquired, or hereafter acquired, by contract or agreement with other States or otherwise, although such land and territory are not included within the boundaries hereinbefore designated.

Sec. 2.—The boundaries of the several counties of this State as they now exist are hereby ratified and confirmed.

Sec. 3.—The General Assembly shall have the power, provided that each house by a majority of the members elected thereto shall vote in favor thereof, to submit to a vote of the people residing within the territory proposed to be taken from one county and given to another, a change or alteration in county lines, but no such change or alteration shall be made unless such proposed change or alteration shall receive two-thirds of the votes of the qualified electors voting at such election; and, provided, that no county line shall be changed or altered so as to reduce any old county below five hundred square miles, or which shall reduce the inhabitants in such county below the number of inhabitants to entitle the county to one representative.

Sec. 4.—The General Assembly shall have power, provided that each House, by a majority of its members elected thereto, shall vote in favor therefor, to submit to a vote of the people within the boundaries of the proposed new county, the creation and

formation of new counties, but no new county shall be created, unless such proposed new county shall receive two-thirds of the votes of the qualified electors, voting at such election; and at the same time the question of a name and a county seat for such county shall be submitted to and determined by said electors; and, provided, that no new county shall be created or formed of less extent than five hundred square miles, and which does not contain a sufficient number of inhabitants to entitle it to one representative under the ratio of representation existing at the time of its creation, and leave the county or counties from which it is taken with the required number of inhabitants entitling such county or counties to separate representation, or which shall reduce any old county below five hundred square miles.

Sec. 5.—No county lines shall be altered or changed or in the creation of new counties shall be established so as to run within seven miles of the county court house of any old county.

Sec. 6.—No county site shall be removed except by a two-thirds vote of the qualified electors of said county, voting in an election held for said purpose, and when an election has once been held for such purpose, no other election can be held for such purpose until the expiration of four years; provided that the county site of Shelby county of this State shall be and remain at Columbiana, unless removed by a vote of the people as provided for in an act entitled "An act to provide for the permanent location of the county site of Shelby County, in Alabama, by a vote of the qualified electors of said county," approved the 9th day of February, 1899, and the act amendatory thereto, approved the 20th day of February, 1899, or by an election held under the provisions of this article.

MR. PARKER (Cullman)—I move that the report of the Committee be printed with the article.

THE PRESIDENT—It is moved that the report of the Committee be printed with the article.

A vote being taken the motion was carried.

THE PRESIDENT—The report of the Committee with the minority reports and the ordinance reported will lie over and be printed.

MR. PARKER (Cullman)—I move to make this report a special order after the last special order that was made.

The motion was seconded by Mr. deGraffenreid.

THE PRESIDENT—It is moved that this ordinance and report be made a special order after the other special orders that have been made include the report of the Committee on Taxation, the report of the Committee on Preamble and Declaration of

Rights, the report of the Committee on Legislation and the report of the Committee on Municipal Corporations.

MR. OATES—Is it necessary to make an order of that kind. I suppose it would come naturally in the order in which the reports were made unless the Convention votes otherwise.

THE PRESIDENT—It seems to the Chair that it would come up in that order except that the order of business is a little different. The regular order is reports of standing committees, reports of special committees, unfinished business, special orders, consideration of ordinances and resolutions which have been reported from the committee. It simply advances it one rank in the order of business.

MR. OATES—I made the inquiry for the reason that sometimes something occurs which renders it important to change the order of procedure. As a rule, I think it entirely fair to take up the reports in the order in which they were made, but sometimes a necessity may develop for changing it.

THE PRESIDENT—It would be competent for the Convention to make the change when the contingency arises.

MR. OATES—With that understanding, I have no objection to it.

MR. JACKSON—I would like to ask if the report of the Committee on Banks and Banking does not also come before this report from Committee on State and County Boundaries?

THE PRESIDENT—It does, and the Chair failed to enumerate it.

A vote being taken the motion to print was carried.

MR. O'NEAL (Lauderdale)—I ask unanimous consent that the Clerk correct a typographical error in the report of the Committee on Local Legislation. The error is in Section 6, line 4 and consists of the omission of the words "is one" after the word "article."

THE PRESIDENT—Is there objection? The Chair hears none, and it is so ordered.

MR. OATES—I wish to inquire of the delegate from Lauderdale if it was not understood that the supplemental report made from the Committee on Legislative Department was to be printed and considered along with his report?

MR. O'NEAL—Certainly.

MR. OATES—It has not been printed.

THE CLERK—It was brought in at a later day and is now in the hands of the printer.

MR. OATES—The two ought to go together.

MR. O'NEAL—That was the understanding, and there is no objection on the part of the Committee on Local Legislation to that arrangement.

THE PRESIDENT—The next order of business will be the consideration of the special order pending when the convention adjourned on yesterday.

Mr. Graham here endeavored to obtain recognition.

THE PRESIDENT—To what purpose does the gentleman rise?

MR. GRAHAM—To address the Convention on the pending matter.

MR. BURNS—I rise to a question of privilege.

MR. CARNATHAN—I rise to a point of order. The gentleman is out of order. He is not in his seat.

MR. BURNS—I am rising to a question of special privilege. My seat is there. The gentleman don't seem to know anything else that point of order. The other day I rose to a question of special privilege and asked the correction of remarks attributed to me that there had been no lynchings in Alabama. What I said was that there had been no lynchings with the connivance of the sheriff. The record has not shown the correction. In yesterday's proceedings in the latter half of the fourth column, first page, I am made to make a motion to table which is entirely foreign to my nature, something that I never have done. I would like to have that corrected.

THE PRESIDENT—The official stenographer will be instructed to make the correction.

MR. GRAHAM (Tailadega)—The pending question is the question which the House had under consideration day before yesterday at its adjournment.

THE PRESIDENT—The question before the Convention is the amendment offered by the delegate from Pike to Section 1 of the report of the Committee on Taxation.

MR. GRAHAM—Gentlemen of the Convention. I desire to address myself to the amendment which has been offered ——

MR. SPEARS—I would like to offer a substitute so that the gentleman can address himself to it as well.

MR. GRAHAM—Not knowing the nature of the substitute, I desire to address myself to the pending amendment.

THE PRESIDENT—The gentleman from St. Clair will have an opportunity to offer the substitute later.

MR. GRAHAM (Talladega)—In the discussion of this amendment day before yesterday, the debate took a wide range, and in order that I may meet many objections and criticisms of institutions now in existence in Alabama, it will be necessary for me to be heard in a range equally wide. I do not desire to impune the motives of any delegate upon this floor, nor will I in the least in my mind and heart reflect upon the position taken by any gentleman. But I am impressed that the question now before us is the old legislative fight against District Agricultural Schools, made under the guise of befriending the farmers of Alabama. I shall not at this time attempt to inject a biographical sketch of myself in the proceedings of this Convention to show that my early influences, environments and training, and all those things that go to make up the life of early manhood of a man, that all of my sympathies are with the farmer, and are of such sacred character that I would not dare upon any occasion to do anything that would be detrimental to the interest of this class in Alabama. We have had it urged here that we should not do certain things because it smacks of local legislation. Gentleman of the Convention the climax has been reached. Under the guise of putting a principle in the Constitution. we have come here indirectly to demolish ten departments in the educational system of Alabama. The District Agricultural Schools are creatures of the Legislature, and this is an attempt to abolish the act of the Legislature. If the Legislature coming from the heart of the people created these institutions.

MR. GREER (Calhoun)—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. GREER—The gentleman is not addressing himself to the question. The Agricultural Schools are not in question in the amendment.

THE PRESIDENT—It seems to the Chair that the gentleman is within the range of the discussion.

MR. GRAHAM—I was going to remark, Mr. President, that if I was not in order, it would be in order to move to strike the gentleman's speech from the record, made on day before yesterday. (Applause.) I was proceeding to say that if the Legislature created these institutions, then it is the duty of this Convention to leave it to the Legislature to abolish them. They are not creatures of the Constitution. Every gentleman who has spoken upon this question, admitted that it was necessary to have fertilizers examined. It is necessary for the protection of the farmer and when we take him as a class the law which requires that fertilizer shall be examined, and the law which requires that these District Agricultural Schools shall exist and be supported out of this Agricultural fund—were passed in the express interest and in behalf of the farmers of Alabama demanding such legislation. It is not an

infringement upon them as a class that they shall pay this fertilizer tax. Every vocation in Alabama of a professional character, and of a corporate character pays a license tax, and it is not a burden upon the farmer that he should pay the small license tax for the support of a department, to see that fertilizers of a spurious kind are not foisted upon the people, and to support institutions located in agricultural sections for the agricultural class. Now as to the argument made here that these schools are doing no good. Let us see about it. In the first place they are doing no good because they do not reach the masses of the people. Gentlemen of the Convention, on that basis I charge that the University of Auburn and the A. & M College at Auburn do not reach the masses of the people, hence you should abolish them at the same time. The enrollment at the University and at Auburn combined is less than 600, outside of the professional courses. The enrollment in the nine District Agricultural Schools approximates 2,300. Which class of institutions reaches the masses of the people? But answering the argument that they are doing no good. I would like to call your attention to the fact that these schools are located in the nine Congressional Districts in centers of agricultural interests, and they as high schools, outside of the question of scientific training, meet the demands of the poor boys and poor girls of this State who are not able to bear the expense of going to Tuscaloosa and to Auburn. They furnish an opportunity to the poorer classes that they may reach these high schools, and there equip themselves not only for farmers—and I will meet the argument on that line later—but that they may equip themselves for any vocation in life. You do not undertake to say that a boy that goes to the Polytechnic Institute at Auburn shall devote himself to a certain specific employment, nor do you limit it to that of farming. I say that boys and girls of this State, many of them are unable to bear the expense of going to distant schools and pay their board in the larger cities, and it is in behalf of this class that I make this appeal, that these schools shall not be removed, because the effect of the adoption of this amendment will abolish every one of them the very day that the Constitution here made is ratified by the people. Let us look at these schools and see if they are merely local in their influence, as stated upon this floor. I quote from the report of the State Superintendent for the year ending 1900. I find enrolled in these schools that year 2,268 pupils, taught by fifty three teachers, and representing fifty-three counties in Alabama. Look upon the rolls of the University and the A. and M. College, and show me where fifty-three counties are represented in these institutions. Tell me that they are local in their effect! The statistics deny the assertion! Now then they say that they are not devoted to agricultural purposes. Maybe they are not. Where is the gentleman that will contend that you can make an expert of a man as a physician without giving him first a common school education, where is the man that will con-

tend that you can make a reputable lawyer and an expert lawyer of a man without first giving him rudimentary training? On the line of argument adopted by some of the farmers in this Convention that a farmer is made to work in a cotton field, I would refer you to every negro in Alabama engaged in agricultural pursuits as an expert and scientific farmer, because they have more experience in farm work than any other class. Gentlemen you must first furnish a common school education in order to get foundation for scientific training in agriculture. The distinguished gentleman from Washington by his able and intelligent arguments upon this line showed that he had a foundation to build upon both in education and experience before he became an expert farmer and agriculturist. The question of good faith has been raised. Good faith? Are the farmers the only ones that have any rights to this tax? Are they? Let me explain to you that each of these agricultural schools has been located at some community where that community has made an effort and a large outlay of money to obtain these schools. I read from the report of the State Superintendent that a portion of these schools have turned in the valuation of their property, and figuring it out upon the estimates of those who have reported,—and with one another, the value of whose property I know—there is invested in this State in each one of these schools $15,000, and that investment has been made by the communities where the schools are located. I ask you gentlemen, have these citizens of Jackson in the First District, of Evergreen in the Second District, of Abbeville in the Third District, of Sylacauga in the Fourth District, of Wetumpka in the Fifth District, of Hamilton in the Sixth District, of Albertville in the Seventh District, of Athens in the Eighth District, of Blountsville in the Ninth District, any right and equities to be considered on this floor? How is that property held? Each community that is given the pitiful sum of $2,500 a year has gone before the Governor and Board of Alabama and secured that location by furnishing a school building, furnishing land for agricultural experiments, and those communities have given the deeds of all that property to the State of Alabama to be held in trust so long as the State shall provide for that property to be held for educational purposes. Do we owe anything to these communities, and we break faith with them, and thus abruptly take away from them this appropriation and let the State lose this property which in round numbers will amount to $135,000 today, that the State holds in trust for educational purposes. No, gentlemen, if you do this you violate every right and every obligation of a contract made in good faith between the people of the nine communities enumerated by me and the great State of Alabama. Let me illustrate a point. Sylacauga, in the Fourth District, has the most valuable property that is used for this purpose. I am personally acquainted with the property—and I am not one of those that made an appeal here that these schools be not abolished because I have one in my

town. I have not. My heart and my soul are as much with the people of Jackson in Clarke, and with the people of Athens in Limestone, as they are with my own fellow citizens at Sylacauga. Let me illustrate. The citizens of Sylacauga when they secured the location of this school there laid down a check for $5,000 before the Governor of Alabama. They put in deeds for 200 acres of land, they put in a deed for a school building and the lot on which it was erected, the building costing $30,000—making a total at the very least estimate of $40,000, that the citizens of Sylacauga gave in order to get an annual appropriation from the State of Alabama of $2,500, and the interest on the donation from Sylacauga at 8 per cent. amounts to more in one year than the State of Alabama gives back to the people of that community—$3,200—

MR. PEARCE—Will you permit me to ask you a question?

THE PRESIDENT—Will the gentleman consent to be interrupted?

MR. GRAHAM—Certainly.

MR. PEARCE—Was that deed made to the farmers or to the State of Alabama?

MR. GRAHAM—It was made to the State of Alabama—there was no other place for it to be made—it is an agricultural State, $3,200 interest on the investment of the people by Sylacauga, against $2,500 from the State. Where is the man who has any regard for the sacredness and the obligation of a contract that can vote here to repudiate a condition of this kind? All of them may not have done so well, but they have all done as well as they can, they have cast in what they could, and it is as sacred under the law as the larger donations. There is one other element in that proposition. That building that I have referred to was owned by a corporation known as Sylacauga Improvement Company, and fully 90 per cent. of the stock of that corporation was owned by citizens of Pittsburgh, Pa. They made a deed, without one dollar of inducement, to the State of Alabama to this valuable property, to be held in trust for educational purposes in Alabama. Will the Constitutional Convention of Alabama show less interest in the education of the boys and girls of Alabama than a Pittsburgh, Pa., corporation? I ask you that solemn question. And now what? Pass this amendment and these properties which have been held in trust by the State of Alabama for educational purposes will revert to the original grantors, and you have these school houses in the respective communities struggling for an existence, and dependent solely for educational advantages on three months' common school in Alabama. Gentlemen, did we come here as a constructive people or destructive people? Do we recognize the fact that an intelligent citizenship is to be the foundation of all future growth and prosperity in this country? If we

do, we dare not place our hands upon a single educational institution in Alabama and tear it to its foundation and destroy its influence and its worth. We have a solemn trust. We cannot depend upon material development—we cannot depend upon agricultural prosperity in Alabama to make it a great State. It will only be when the school house and the church spire tower to the heavens in every community, only when the citizenship of the State rally around their educational institutions that we can unfurl our banner to the breeze and say in truth that we are going onward and upward.

There is another feature. The contracts for these nine schools have been made for another years. Fifty-three teachers have been employed to work in these schools. The citizens of the communities are standing there waiting for the boys and girls to come in representing as they did in the preceding year fifty-three counties in the State of Alabama—and mind you, gentlemen, I want to impress it upon your minds—that the boarding pupils of these institutions are boys and girls coming from humble farm homes, their incomes will not justify going to more distant schools and where board will be higher. Do not go off on the argument that they do not reach all. Only 50 per cent. of the children of educational age are in your common schools. If you are going to argue the same question with the same legitimate consequences you must close your common schools in Alabama, because a sufficient per cent. of the people do not patronize these schools, and I want to say to you that the influence and the power of one young man with brawn and brain that comes from one of these humble country homes where a poor father and mother delve all the day and nearly all the night to sustain him in school—when in future years he gets among the people adds strength to the country in whatever sphere he may be, and is worth more than 10,000 of those who shut their eyes and ears to the influences of common school education in Alabama. I am for the poor boys and girls who ought to reach these schools and have no other means of higher education. Now on the point that I left a moment ago. Are you going to break the contracts with 53 teachers in Alabama for another year? Are they not as sacred as any contracts that you have as individuals. Are you going to do it? Have those people with their local investment, and the local pride they have shown by spending their money—have they no rights to be considered at the hands of this Convention? Away with that narrowness that makes a man fight a school because it did not happen to be located in his own town; away with that narrowness that does not want a school to flourish and to do good in Alabama because, forsooth, every boy and girl in the State does not attend it! Now, let me call your attention to another fact. You say that the poor farmers of the State pay it and do not get the benefit of it? Somebody said that the tenant classes largely paid it and not the owner of the land. Who constitute

the large majority of the tenant class in Alabama? Who is it, gentlemen? It is the negro. There is not a school located in this State today for the negro children of this kind and character, yet every negro who buys a ton of fertilizer contributes his share and his mite to the support of these district schools. What are you going to do about that?

MR. GREER (Calhoun)—Will you permit me to ask a question? As chairman of the committee as you are don't you think you had better remedy that evil in your report?

MR. GRAHAM—I suppose my report will be up for consideration hereafter, and if it is not known to the gentlemen of this Convention now I make it known for future purposes, that I stand here forever to say that the negro in Alabama shall not be remitted forever solely to his taxes for the support of his schools.

(Applause.)

MR. ESPY—Will you permit an interruption?

MR. GRAHAM—Just one moment, I would prefer not to be interrupted now. This Agricultural fund last year in the last report, amounts to $75,000. These schools draw $25,000. I beg to correct a portion of my statement in regard to the benefits that the negro receives. I understand that $1,500 of this fund goes to Tuskegee to Booker Washington's school and $1,000 to Patterson's school at the colored University, making them to receive one-tenth of the amount appropriated for this purpose, when I dare say that the facts would show that they pay 40 per cent. of the tag tax. I was going on to say that the receipts last year were only $75,000. These schools received $25,000 and Auburn received something over $11,000, making a total appropriation something like $40,000 for these purposes. Now then, gentlemen, we are talking about taxation in Alabama. The subject of taxation is before us. If you abolish this tag tax where are you going to get the funds to support these schools. We cannot afford to destroy them. Where is their support to come from. How are you going to keep faith with these institutions? Will the State of Alabama by one act destroy $125,000 of property in order to save $75,000 that are now paid out by the farmers. Nobody contends that this tax ought to be entirely removed, or that the expense of examination should not be defrayed. Where are you going to get the money to do it? Where? Now then, gentlemen, to state it as briefly as I can, to adopt this amendment brings us to this point: The State of Alabama will lose $75,000 income. The farmers will not have their fertilizers examined, with the result that the price of the fertilizer will not be reduced one cent. They can stand here and talk for years and years and tell me that the adoption of this amendment will bring about a reduction in the price of fertilizer, but I have got too much corporation sense and

experience for any man ever to make me believe that absurd proposition. The State loses $75,000 and the farmer gains nothing is your first proposition. The next proposition is, that the State loses $135,000 in good school property that it now holds, and gains nothing. The next proposition is that you violate a contract of good faith with nine communities in this State; abrogate a contract with fifty-three teachers and shut the school houses to 2,300 pupils in Alabama. You give a blow to educational progress in Alabama that we cannot recover from in the course of ten years, however much we may increase in tax values and in appropriation for public schools. I call upon the gentlemen on this floor who have a regard for the sacredness of a contract, who believe that we meant what we said when we stated in our platform that Alabama should take no backward step in education, who believe that these schools are doing good work in Alabama, who believe that we should keep faith with the people of the State,—I say I call upon you to vote down this amendment and let us prove to the people of Alabama by our acts that we meant what we said.

MR. ESPY—I desire to offer an amendment.

The amendment was read as follows:

Amend by adding "and after September, 1903, no license or other tax shall ever be levied or collected for the inspection of any article of merchandise used for fertilizer, in excess of 10 cents per ton."

MR. GRAHAM—Will the gentleman from Henry allow me to make one statement?

MR. ESPY—Certainly.

MR. GRAHAM—In arguing the proposition of what these communities had put into the several schools, I overlooked one fact and that is that these nine schools spent $20,000 last year made up in their respective counties in supplementing the appropriation of $22,500 from the State. I desire that to go in as a portion of my argument in regard to what the respective communities paid.

MR. FOSTER—May I ask the gentleman from Talladega a question?

THE PRESIDENT—If the gentleman from Henry will yield to you for that purpose.

MR. ESPY—Certainly.

MR. FOSTER—Are these schools supported entirely by the money from the fertilizer tax?

MR. GRAHAM—Nine of them receive $22,500 from the State each year and the report shows that they supplement that by about $20,000

MR. SAMFORD—But the $22,500 comes exclusively from the sale of guano tag tax.

MR. GRAHAM—Certainly. I understand the gentleman to ask did the whole support.

MR. SAMFORD—But the $22,500 comes from the tag tax?

MR. GRAHAM—Yes, and the record shows that those people are adding as much as that themselves approximately.

MR. ESPY—In offering this amendment I do not care to be understood as being opposed to the amendment offered by the gentleman from Pike. On the contrary, I am in sympathy with both the sentiment and the letter of that amendment. But since its introduction, and its discussion on this floor it has become evident that a large majority of the delegates desire that the law should be changed so as to prohibit the levying of the tax for an amount at least sufficient to pay for the inspection of the fertilizer.

Another point has been urged here that teachers have been employed for these various schools, amounting in number, I believe, the gentleman from Talladega said, to fifty-three, and I agree with him it would not be right to deprive these teachers of the benefits of their contracts already made.

Again, Mr. President, I have heard it suggested that the Legislature in providing for the revenues necessary to run the State of Alabama looked to this source of income which amounts to anywhere from seventy-five to one hundred thousand dollars per annum, therefore my amendment seeks to obviate the objections pointed out by the various delegates so as to meet those difficulties—to make the section become effective on the first day of September, 1903, and thereby remove the objection that the revenue that the Legislature had in view would be taken from the treasury and so that the teachers of the State would not be deprived of any rights that they may have had by virtue of their contracts.

MR. deGRAFFENREID—I will ask if all of the fertilizer factories in the United States are not in a trust?

MR. ESPY—I understand they are.

MR. deGRAFFENREID—They are all combined?

MR. ESPY—Yes, sir.

MR. deGRAFFENREID—They fix the price of fertilizer.

MR. ESPY—To some extent.

MR. deGRAFFENREID—Now I do not mean to indicate by this question that I do not sympathize with this amendment

or that I do, but if we were to adopt the suggestion of yours, will not this be legislation in the interest of the trust?

MR. ASHCRAFT—I do not desire it to go unchallenged on the floor of this Convention that all the fertilizer factories are in a trust. I happen to know one that is not.

MR. ROGERS (Sumter)—I want to rise and say that there are very few fertilizer factories that are in the trust.

MR. SANDERS (Limestone)—I understand the cost of analysis is about ten cents per ton?

MR. ESPY—My understanding is in that neighborhood. Some say five and some say ten, in the different States.

MR. SANDERS—Then after 1903 the ten cents for which your amendment provides would only pay the cost of the analysis and leave nothing for the schools?

MR. ESPY—That is the proposition.

MR. SANDERS—The effect would be to wipe out these schools.

MR. ESPY—So far as this money is concerned. That is the purpose of my amendment, to permit the Legislature to charge enough to pay the expenses of the analysis only. The gentleman has properly construed the amendment.

Now, addressing myself to the merit of the amendment offered by the gentleman from Pike, as amended by myself, I desire to say I favor it because as the matter stands now it is class legislation of the most vicious character. The farmer pays tax upon his land and upon every other species of property just as any other man does, and when the Legislature prescribed the rate of taxation to produce the revenues by which the State of Alabama shall be run, they lay an equally heavy hand upon the lands and all other property of the farmer and he pays the demand. Now in addition to that the Legislature goes further and puts a special tax upon these tags which produce a revenue of from $75,000 to $100,000 per annum. Where is there a man within the sound of my voice who does not see that the farmers in the State of Alabama in addition to what they pay on their property generally, are taxed additionally to the extent of $75,000 or $100,000. That is the question that is involved here. It is double taxation. As has been well suggested by gentlemen here, no tax is laid upon the products, no tax is laid upon the material or goods used by any other men in any other vocation in Alabama. If this statement is not correct, I challenge any gentleman here to correct it. Those who operate coal mines and operate iron mines, pay nothing at all. Then what is this? It is a species of legislation directed alone against one class of men. It is true delegates upon this floor may say it is

not class legislation. This is true. And why? Because every man who buys fertilizer has to pay the tax. But practically it is class legislation, because the farmers alone buy the fertilizer.

The Legislature itself has recognized the wrong it has done to the farmers in Alabama, and recognizing that wrong, they say in substance this: "Boys, if you will keep quiet, we will return you a portion of that which we have wrongfully taken from you." How? They say, "Yes, we are taking from you $75,000 to $100,000 per annum. You are here before the Legislature asking that that law be repealed. Now be quiet, hush and go home, and if you do, we will divide with you." "How will you divide?" "In order to buy your peace and secure your silence, we will establish in each Congressional district in the State of Alabama an Agricultural school and we will give $2,500 per annum to each school. That is the price for silence that we pay you, $2,500 per annum for each school, amounting to $22,500 in all." Where does the balance go? I ask you delegates, I appeal to you as honest men conceding that the schools are what they were intended to be, conceding that they accomplish the purposes for which they were created, there remains from $60,000 to $75,000 per annum that does not go to educate the farmers' children, that does not go in support of agricultural schools. Where does it go? It goes into the State treasury, or substantially all of it goes into the State treasury, thereby doing what? Doubling the taxation upon the farmers of the State of Alabama. And no gentleman as I conceive it can successfully challenge the statement or the proposition

Why, it is urged here that the farmers themselves want it. I deny that. I know that the farmers in my section are clamoring for its repeal, and I know that the farmer delegates who have spoken upon this floor have appealed to this Convention to relieve them from this burden they are now bearing; and it so happens that at least two of these speakers live in counties where they have schools, and they see the practical operations of these schools, the state of affairs and the condition that exists, and in answer to that proposition what do they say? The opposition come and say that this fight is the same old fight upon the agricultural schools of this State. I deny it, Mr. President, that is not it. Why do they resort to that argument? Because if they cannot defend their position on that line they cannot defend it at all, it is indefensible, and they must go down in defeat. Who here has asked that a single school in Alabama be destroyed? Not one, no delegate has asked that. But here is the proposition, don't tax one class of people so as to make that class bear more than its pro rata of taxation.

MR. GRAHAM (Talladega)—Will the gentleman from Henry allow me to ask him one question?

MR. ESPY—Yes, sir.

MR. GRAHAM—If we adopt this amendment and ratify the Constitution would it not cut off any chance of appropriation to those schools from the date of the ratification of the Constitution?

MR. ESPY—No, sir.

MR. GRAHAM—Where would the appropriation come from?

MR. ESPY—Out of the general revenue. This amendment does cut you off from laying it on the farmers, but it does not cut off its being appropriated out of the general treasury.

MR. GRAHAM (Talladega)—Then would it not be necessary for the protection and continuation of these schools for the Legislature to meet and pass a special act?

MR. ESPY—No, sir; this don't go into effect until 1903.

MR. GRAHAM—Would it not cut it off after 1903?

MR. ESPY—I think it would.

As I was going on to say, they say that this is the old fight against the schools. In that they are mistaken. They are making a false issue, dodging the real issue. And why? Because they know there is no delegate in the Convention who is in favor of tearing down any institution of learning. I agree with the gentleman from Talladega in his eloquent remarks as to the necessity and the beneficial effects of education; I differ with him as to the manner of deriving the revenue to support those institutions. He charged that the purpose is to destroy the schools; we assert that the purpose is not to destroy the schools, but to maintain them, but to require that the money should be gotten not from the farmers but from all the people. I think I have successfully demonstrated that the farmer is doubly taxed to the extent of $100,000.

Now the next proposition the gentleman makes is that this is an improper place, to have this thing in the Constitution. I fear my friend, with all due respect to his great learning, has studied the province of a Constitution but little. A Constitution proper should contain as nearly as possible commands and prohibitions. This is a prohibition The people themselves do not need the adoption of the Constitution to confer power. That is not the purpose of it. The purpose of a State Constitution is to restrict the Legislature from exercising unwise powers, and that is exactly what we are trying to say here. Here is a power that has been vested in the Legislature to tax one class of people for the benefit of another. The law has been passed. Legislature after Legislature has been appealed to to repeal that law. They have not done so and those affected by the tax come here and ask this Convention to insert a clause in the Constitution to prevent a continuation of a repetition of that unjust taxation. That is all that is involved in this amendment.

The next proposition I desire to call attention to is that they say we charge these schools are doing no good. No such a charge as that has been made. No such charge will be made; but so far as the agricultural feature of the colleges is concerned, I do not mind stating to the gentleman so far as I have been able to find out from each one of them, each one is a failure from an agricultural standpoint. That is the proposition. I have one in my county and I say unhesitatingly that so far as the agricultural feature is concerned it is absolutely worthless. Yet it is a fine school and it is doing a great deal of good and I do not ask this Convention to take any steps that would destroy that school. But when you come to me and tell me if you don't give us a tax from the farmers to support that school, the school must go, I tell you to let it go, it ought to go. It is not right to tax one class of people to support schools for the entire country. Is there any delegate here who will contend that these schools are not equally open to the sons and daughters of every other class of men as well as farmers? They cannot make that statement.

MR. JACKSON—I understand the gentleman to say that the purpose of his amendment is not to destroy the schools?

MR. ESPY—Not at all.

MR. JACKSON—But is not the result to destroy the schools?

MR. ESPY—Not at all. If you want to keep up your schools keep them up out of the general fund. That is what you ought to do or let the schools go.

MR. GRAHAM—Will the gentleman from Henry permit an interruption?

MR. ESPY—Yes, sir.

MR. GRAHAM (Talladega)—The proposition has been made that the farmer don't pay this tax, but the manufacturer has to pay it. I want the gentleman as a lawyer to construe a statute.

MR. ESPY—Oh, the law says the manufacturer shall pay it.

MR. GRAHAM—That is not all. Allow me to read it: "Whenever any manufacturer, merchants, or other person selling fertilizer shall directly or indirectly include such tag tax in the price of the fertilizer sold, such sale is void," I ask you if that would not render void any sale to a farmer where the tag tax was included and the farmer would not have to pay anything.

MR. ESPY—If you could prove it; but as a business man don't you know that every manufacturer of any product adds to the cost of production a legitimate profit?

MR. GRAHAM—If that be true, you should abolish the corporation tax on every corporation in Alabama, because the people have to pay it eventually.

MR. MALONE—Is it not a fact that the price of fertilizer is regulated by a trust, that while all the factories may not be members of the trust the price is practically regulated by the trust, and is it not a fact that this price is one thing in Georgia and that in Alabama 40 cents is added to it.

MR. ESPY—It is a fact, as I understand it, and I get my information from business men of a very high order who have been dealing in fertilizer for years. For instance, you can order a ton of fertilizer shipped to Saffold, Ga., and another shipped to Alaga, Ala., and although the two stations are not over a quarter of a mile apart, Alaga pays 40 cents a ton more than Saffold, just across the river, for the very same product.

MR. WHITE—The statute was read by Mr. Graham which prohibits manufacturers and dealers from charging up in the price of fertilizer the cost of the tags. Does not that statute recogniz the injustice of it?

MR. ESPY—It certainly does.

As I was proceeding to say, here where there is nothing but a State line, where no tax is levied in Georgia except the cost of analysis which is from 7 to 10 cents, the price is one thing, and over in Alabama where we have a 50 cent tax there is an increase of 40 cents on the ton, showing conclusively that the extra charge is made because of the license, and that the consumer in Alabama, notwithstanding the provisions of the law, has that tag tax to pay.

MR. PARKER (Elmore)—It has been stated just now that the agricultural features of the school are not a success.

MR. ESPY—Yes, so far as I have been able to ascertain. I do not speak for all of them.

MR. PARKER—Is it not a fact that only five hundred dollars a year is appropriated in each school for that purpose?

MR. ESPY—Yes; and in my county they say they cannot expend the $500 upon the little farm they have in order to draw the $2,000 the succeeding year. There is nothing there to use that five hundred dollars for and it is practically squandered and applied to no practical or useful purpose at all.

Now I get back to the proposition, must these schools continue to thrive upon an unjust tax exacted from one particular class of our people? I don't think the delegates to this Convention want that done. The farmers of Alabama have applied to Legislature after Legislature and each time they are met with the proposition that there is an onslaught upon these institutions of learning, and they are turned away without relief. Now they appeal to you to give them that relief in the form of a provision in the organic law that you are now framing and making for them.

Will you do it or will you, like the various Legislatures to whom they have appealed, turn them away without relief? I hope that you won't do it. Here is what it means: They have nine of these schools and in every Legislature they have eighteen representatives and nine Senators. In other words by the establishment of these schools they have successfully added in each Legislature eighteen men in the lower House and nine men in the upper House to help them hold on to this iniquitous fund that they are exacting from these people. I say strike it down and you ask me what will you give in the place of it. I don't want to destroy these schools, but cut off this tax and if it is necessary to have more money raise your general taxation and let the entire people of the State pay the money that supports these schools. Now I want to state a practical illustration of the working of these schools. There is one in each Congressional District. In my own district we have 225,000 people and the school in this district is located at Abbeville and what per cent. of that 225,000 people get the benefit of that school? The children of a citizenship of not exceeding one thousand people. The money is raised from the entire 225,000, but when it is expended it is expended upon the children of school age of less than one thousand citizens.

Some one may answer me and say well the school is there and the farmer can send his children to the school. If such a point as that it made I say, yes, the institutions are there and there is nothing to prevent the children of the district from going if they have the money and pay their way but for all practical purposes these schools are as much beyond the relief of the great masses of the people as Johns Hopkins University. They are not able to go there and pay the board.

Gentlemen ask us would we repudiate this law and lose this valuable property that has been deeded to the State. I tell him no, we don't ask for that. That is not the proposition. He don't deny but what it is double taxation but seeks to divert the minds of the delegates to this Convention from the real issue and make it appear that we are attacking institutions of learning, a very ingenious thing on the part of the gentleman from Talladega.

As I said a while ago, strike down this tax. The amendment I offer provides a sufficient amount of money to pay for the analysis of the guano and that is as far as it ought to go.

I think I have demonstrated to the Convention that adopting the theory of the opposition, it is only a matter of twenty-five thousand dollars a year to these Normal Schools and the balance of it goes into the general treasury and the entire people get the benefit of it.

MR. FLETCHER—I would ask the gentleman what per cent. if the pupils in these Agricultural Schools become farmers?

MR. ESPY—I never heard of one of them becoming a farmer. They are always lawyers and doctors.

In conclusion, I only want to speak for a minute and to appeal to the delegates in a spirit of justice and fairness to support this amendment and thereby relieve the unjust burden resting upon the yeomanry of your State. I appeal to you in the spirit of Democracy to repeal this tax and strike from the statute books one of the most vicious pieces of class legislation that ever existed in Alabama. I appeal to you to rise above self interest and let what you think is right as between man and man alone dictate how you shall vote on this matter.

MR. HARRISON—I have listened with interest to the argument pro and con upon this amendment. The amendment offered by the delegate from Henry appears to my mind to be a species of legislation and that it does not do what the gentleman so eloquently said was one of the prerogatives of the Constitution which was to prohibit the Legislature.

MR. ESPY—Let me ask the question: This legislation has been enacted. Diligent effort has been made to relieve the farmers from it. That is a fact.

MR. HARRISON—I think so, it has been repealed once.

MR. ESPY—Not repealed entirely but simply changed from bad to worse. Now is it not proper when an evil of this kind exists and the people have sought relief in vain through legislative channels—is it not proper for us to put a provision in the organic law giving relief? If that is not proper subject for a Constitutional clause I would ask the gentleman to cite me to one that is.

MR. HARRISON—I think the amendment offered by the delegate from Pike would be, for that would prohibit, while this would only limit. You are proposing to legislate in your amendment how much that license tag tax shall be, which may be higher or lower next year.

MR. ESPY—That is not it at all. It permits the Legislature to go as far as 10 cents per ton, but no farther.

MR. HARRISON—Is not that a limitation?

MR. ESPY—It is.

MR. HARRISON—And not a prohibition which you said we should be confined to.

It shows at a glance, Mr. President and delegates to the Convention, that my friend from Henry is undertaking to legislate the price of a license tax here in the Constitutional Convention, and whether it be now right or wrong, I submit it is a matter which

should be referred to the Legislature and which will doubtless, as prices of everything else, must rise and fall, and must be changed to meet the exigencies of the times and the prices prevailing when these laws are enacted.

MR. WHITE—When we fix 75 cents on the $100 for taxation, what is that?

MR. HARRISON—That is a limitation, but my friend from Henry said we can only have prohibition. He changed the prohibition of the amendment of the gentleman from Pike to one of limitation. I was only applying myself to his argument.

I think it is a legislative function and ought to be left with the Legislature, even with all he said as to the impropriety and highness of this price is correct. If that is correct the gentleman should run for the Legislature and go there and try and correct it there and not here in this Constitutional Convention. It is true the farmers here and their representatives, some of them, not all of them, I am glad to say, say that this was not inaugurated and not desired by the farmer. I happened to be in the other end of the Capitol as a lawyer when this law was passed. I remember the appeals that were made to the Senate and it was composed largely of lawyers, by the master of the State Grange, Mr. Hiram Hawkins and a committee. I remember how they came to the Senate composed of lawyers largely and appealed to them to let the farmers regulate this matter, the whole system of agriculture for the State of Alabama from the Commissioner down, the Commissioner whom a few days ago this convention engrafted as one of the Constitutional officers of the Executive Department.

MR. SAMFORD—Has not the Hon. Hiram Hawkins been a candidate for the office of Commissioner of Agriculture ever since?

HR. HARRISON—I have not kept up with the gentleman. I can neither deny or affirm. I do not see that that affects the principle that he helped to get this law passed. I believe there are some other farmers who have succeeded in getting the office and I believe the very law requires that the Commissioner shall be a farmer. The whole system grew out of this very tax.

Now, I submit instead of going off on this line that we should take the back track as we have done with the Lieutenant-Governor. Section 38 in the present Constitution, on Legislative Department, was produced because we then had a Commissioner of Industrial resources that became the laughing stock of the State, and the Convention provided that "No State office shall be continued or created for the inspection or measuring of any merchandise, manufacture or commodity, but any county or municipality may appoint such officer or officers when authorized by law." That was put there to legislate old man Lambert out of office,

and it did. It has been in the way of business and it is today in the way of an effective execution of this analysis of fertilizer. It is only recently that complaint has been heard because the Constitution prohibits the appointment of an inspector who shall himself go and draw these samples and inspect them as is done in other States and not required of them to be sent for examination. In Georgia the inspector may go to the articles when they come in the borders and draw samples himself and inspect them properly and but for this provision in the Constitution we could have that here and I trust the Committee on the Legislative Department when they report will leave that out and leave it to the Legislature to see that proper inspection is made.

Now, as to whether the consumer or the manufacturer pays this tax, there are differences of opinion. I have been told in my town and in the adjoining town of Lafayette near the Georgia line, that the prices are identical. Some deny it, but I know it is so stated. I am also informed although my friend the delegate to the left says there is at least one manufacturer that is not in this combine or trust, I have been told and I see merchants here who know it that there is but one drummer all over this country to sell you any sort of fertilizers. If that is so it looks like a trust. I have had the best merchants in my town tell me that only one man comes around selling fertilizer and you can get any brand from him.

MR. WHITE—Does it improve the condition of the farmer to have the State after him on one side and the trust on the other?

MR. HARRISON—The farmers were trying to get even with the trust when they passed that statute. Whether they did or not, I don't know, but I suppose it was an effort to endeavor to get even.

Now I don't understand the necessity of placing this matter in the Constitution at all, and I don't understand why it was until this Article came from the Committee on Taxation that such a matter as this was never brought up. If there was any ordinance of this sort introduced before I never heard of it. I was an humble member of the Committee on Taxation and if there was any such ordinance introduced, I failed to hear it read and it did not reach that Committee. Why spring it here when it is a matter that has not been considered by the Committee. I have never heard of it, and right or wrong, can't the Legislature of Alabama be relied upon, if they have done wrong, to correct this evil. Why make the friends of these nine or ten schools opposed to this Constitution we are adopting to start with. Is it good policy, is it proper. Can't we risk the Legislature? As I say, to my personal knowledge, the farmers commenced this movement and got this legislation. At one time it was changed from 50 cents to 25 cents and I believe it was Governor Jones who sent a message to the

Legislature after trying the 25 cents tax and seeing the prices were not reduced, recommending in a public message to the General Assembly that the tax be again put back to 50 cents These matters are brought up at every session of the Legislature. There are more farmers in the House in proportion that there are in this body. It is useless for you delegates to say here that there was ever a Legislature where the farmers did not have sufficient majority to assert and maintain their rights. I believe as firmly as I stand here, that they not only inaugurated it but that it is controlled and managed by a majority of the farmers in the General Assembly. Now I desire while I have the floor, not as the special champion of anyone, for I am addressing myself to the merits of this proposition—but some things have been said in connection with one of the best institutions in Alabama about which I endeavored to get certain information. I refer to the Agricultural and Mechanical College. It was stated by my friend near me that that institution had received $37,000. I called their attention on the first day when this matter came up to the fact that the State only gave them one-sixth of that fund. I wish to say right here what no one will deny, and I say it gladly that that is one institution of Alabama that politics has never had anything to do with, and it ranks deservedly high, and this tax, for which I will show you a quid pro quo is the only money that the State of Alabama contributes to that institution. Now I have the figures here of what they received in the last four years:

In 1897	$ 8,746
In 1898	9,988
In 1899	6,432
In 1900	11,770

Now I submit right here that those figures should show my friend, the delegate from Henry that he had better not fix any special limit when the tax varies so much that in one year they get $11,000 and in another they get $6,000.

MR. ESPY—What is the highest amount received in anv one year?

MR. HARRISON—$11,770.

MR. ESPY—And the lowest?

MR. HARISON—$6,432.

MR. ESPY—And they only get one-sixth?

MR. HARRISON—Yes, and this is the only money that the institution gets, and no farmer or lawyer or anyone else can deny that they have been doing a great work for all those who desire special education in the State of Alabama.

Now as to the cost of this matter. The State of Georgia itself pays to have this analysis $9,000 a year.

Some good has been made of this fund. The Agricultural College, I am informed has erected a four thousand dollar building and has equipped it with a thousand dollars worth of instruments and implements. And it does what? It employs from four to five experts all the year around in that Department. There are today five or six young men engaged in that Department, and I desire to say for and in behalf of that institution, in regard to the aspersions that have been made as to the value of their analysis, that as to that the gentlemen are mistaken. In behalf of the institution, I challenge the correctness of any such statement. To show you how it is regarded, I will say that during this present season between eight hundred and one thousand analyses have been made already, which is about the average. I will say the samples are sent to the Commissioner of Agriculture, in bottles that are merely numbered, and are not known to the parties. To illustrate further the value of the work that is being done by this institution, I will say that there have been referred to them a number of cases for final decision. Samples have been sent to the laboratory at Auburn from Louisiana, from Mississippi and from Georgia, where the manufacturers had challenged the analyses of those States, and submitted the article for analysis at Auburn.

This is the way that it goes to them, (holding up a small glass bottle bearing a label). Here is one sent from the Commissioner of Agriculture, simply numbered, showing the material, and that is the way they take hold of it in that institution, and they give the analysis. They do not say whether it comes up to that, but they tell you the contents, and prevent the farmer, as was alluded to here, from buying and paying for dirt. I wish the delegates to know, because I know there is a general pride in this institution, that the institution at Auburn has not only been called upon by Georgia and Louisiana and Mississippi to arbitrate their disputed questions, but today the Professor of Chemistry in the Florida Agricultural College, the professor occupying the same chair in the Mississippi College and the same chair in the University of Alabama, and the city chemists at Atlanta, Birmingham and Montgomery, all received their training at the Auburn laboratory; and to tell me we should destroy it, as my good friend from Pike would have done if his amendment had been adopted. I was astonished at the time, for no man could have known better than he, as an alumnus of that institution, the great work that it has been doing, and that we should not take away from it the mere pittance given to it by the State. I ask where has better work, and where is more value given, a quid pro quo, than for the pittance that has been and is being used today for the benefit of the farmers in the analyses of these fertilizers?

Now, I submit that the delegate from Henry is wrong when he says that this is the only special tax. I am inclined to agree

with him on principle. I would like to see all of these special or privilege taxes done away with. It is unfortunate that the are growing upon us, but this is not the only one. Why the licenses placed today on sewing machine agents, on peddlers, on almost everybody and on all corporations?

MR. GREER (Calhoun)—Will the gentleman allow a question?

MR. HARRISON—Yes.

MR. GREER (Calhoun)—Isn't that a privilege tax rather than than a special tax?

MR. HARRISON—Well it is a tax whether you call it a tax or not. It is not the sort of tax that I believe the great State of Alabama ought to collect, but when you come, my friend, to a particular commodity, if you wish to analyze it, or if you wish to get certain or special scientific information in regard to it, it appears to me that it is right and equitable that the particular person who receives the special benefit should pay for it.

MR. GREER (Calhoun)—We do not deny that. We are willing to pay for it.

MR. WHITE—Will the gentleman allow a question.

MR. HARRISON—The gentleman from Henry caught my eye.

MR. MALONE—Will you give an idea as to what it costs to make this analysis at Auburn.

MR. HARRISON—Yes, I think I can come mighty near it. I have given you the figures that have been paid, and for which they have done it.

MR. MALONE—They are prepared to do it them at that price.

MR. HARRISON—Yes, sir.

MR. MALONE—Now is it not a fact that the present year at 10 cents a ton there would be over $18,000 collected, yet they are called on to pay out only six or eleven thousand?

MR. HARRISON—They sell so much more, Mr. Malone, I suppose it varies. The amount has something to do with it. You take the number of analyses made, when a great amount was sold.

MR. MALONE—Isn't the expense smaller when less is sold, and greater when more is sold?

MR. HARRISON—I don't know how it varies. There must necessarily be some variation, but I do not know exactly what it would be.

But I submit, Mr. President, and delegates of the Convention, that it is not the province of this body to fix this today, for all time to come, even if you desire simply to pay the expense by placing it in the Constitution of Alabama. It ought not to go there. We ought to be willing to risk something to the General Assembly of Alabama. It is their prerogative to pass on this. The farmers elect their representatives to the General Assembly. There are in every General Assembly a greater proportion of farmers than there are in this Convention today, and they can be trusted to take care of their own interests when they occupy these seats now occupied by us. I am therefore opposed not only to the amendment, but the amendment to the amendment, even admitting that any injustice may have been done. I do not know if there are two sides to this question. You talk about the people demanding it. I ask you what men on earth are more ready to yield to the wishes of the people than the ordinary Legislature? Men who are in the habit of going there, and desire to go back, and delegates, you cannot satisfy me that these gentlemen would directly violate the wishes of their own constituents and that the farmers themselves on this floor would go back on their interests.

MR. KNIGHT—May I ask the gentleman a question?

MR. HARRISON—Certainly.

MR. KNIGHT—Do you not know that a bill was introduced in the last House of Representatives and passed, to reduce this tax from fifty to twenty-five cents a ton?

MR. HARRISON—That is my information.

MR. KNIGHT—And do you not know that it died in the Senate Committee.

MR. HARRISON — I believe that the Senate would have passed it, according to my information, if the House had sent it there sooner, but it was like a good deal of legislation which was turned down and local legislation put in its place. I do not know and never heard of its coming before the Senate, but I heard it discussed and if it had come before the Senate, the tax would have been reduced.

MR. KNIGHT—It got there, but it died in the Senate Committee—

MR. HARRISON—Suppose he is correct, and that the Legislature has not done its duty, are not the legislators amenable to the people of Alabama? If this had been a question, and you wished to make it a question before the people, why not send to the House and the Senate men instructed to reduce the tax? Why bring it here and put it in the Constitution, and array all of those elements of opposition against the instrument we shall frame? I think we are taking upon ourselves too much, when we say that

this body has all the intelligence, all the wisdom and all the patriotism in the State, and that the Legislature cannot be trusted to do its duty, held as they are responsible by the pepole, as they always have been and always will be in the future.

I therefore trust, Mr. President, that we will consume no more time undertaking to inject here, without consideration, a matter that has never been considered by any committee. A great deal can be said, and doubtless has been said about the members of the General Assembly having this tax first fifty cents and then reducing it to twenty-five, and putting it back to fifty. There is a diversity of opinion in the State about it. That is shown by the very action of the Legislature. It is shown by the very speeches made on the floor of this Convention by the farmers who have addressed us. Let us offend none. Let us go on and keep it out of the Constitution. Leave it to the Legislature, and if these gentlemen feel that they are wronged, all they have to do is to appeal to that tribunal, and not load down a Constitution and make friends who are friends indeed to the general movement of revision, sulk in their tents, and not be friends and supporters, and feel that we have come here and turned the back of our hands upon these Agricultural Schools, whether right or wrong, and offend those who believe it is right to maintain them. It is not necessary for us to determine this question as to who is right and who is wrong, as to the proper amount to be paid out for inspection, if you admit, as the amendment to the amendment undertakes to admit, that we should have an inspection. Can we not leave it to the Legislature to say what it should be?

MR. MALONE—The gentleman refers to the change from fifty cents to twenty-five, and then the change from twenty-five to fifty. Does the gentleman know the working of the matter, by which it was changed from twenty-five to fifty?

MR. HARRISON—I do not. I only know that it is a fact from current history

MR. MALONE—Will you permit me to make a statement as to how it was done?

MR. HARRISON—You have a right to the floor. I am about through. If you want to make a speech I will yield now

MR. MALONE—It will not take but a second.

MR. HARRISON—All right.

MR. MALONE — The gentleman from Henry, Mr. Ward, moved to change it from twenty-five to fifty, and Mr. Williams from lower Henry agreed if you support my bill to put a court house at Dothan. I will support your bill. That is how it was done.

MR. HARRISON—That is a very serious charge you are making.

MR. MALONE—I give you the names, I do not hide the names.

MR. HARRISON—I do not deny or affirm it.

MR. JACKSON—Will my colleague from Lee allow me to make a statement?

MR. HARRISON—Let me say this, I know the good people of Henry sent one of those gentleman back to the Legislature.

THE PRESIDENT—Has the gentleman from Lee concluded his argument?

MR. HARRISON—I am just now done.

MR. JACKSON—I just want to state—

MR. WHITE—I make the point of order that two gentlemen from Lee cannot have the floor at the same time.

MR. JACKSON — I make the point of order that my distinguished colleague has yielded the floor for one minute to me.

THE PRESIDENT — The gentleman is in order, and will proceed.

MR. JACKSON—Now, Mr. President, I merely wanted to make this statement. In 1894 or 5, I think it was, I won't be positive about that, I know I was a member of the Legislature at the time, and at the request of the farmers of Alabama this tax was reduced from 50 to 25 cents. That bill was introduced here, sir, and passed, and it also passed the Senate, and by some means I don't remember now how it was, except that I want to say this, it was not done like it was in the Shelby County case, the wrong bill was carried to the Governor. A bill retaining the tax at 50 cents per ton was carried to the Governor, and that bill was approved.

Now I know as a matter of fact, Mr. President, that members of that Legislature went home and told the farmers that this tax had been reduced to 25 cents, and the papers came out and stated afterwards that it was 50 cents a ton, and upon inquiry it was found that through some mistake the Governor had gotten hold of the wrong bill. That is why it was made 50 cents a ton instead of 25 cents a ton.

MR. HARRISON—Now, sir—

MR. GILMORE—I rise to a point of order. The gentleman from Lee has consumed more than thirty minutes.

MR. HARRISON — Governor Jones's amendment was not adopted yesterday. I was willing to be limited to five minutes, but I thought you all wanted me to speak half an hour.

MR. PETTUS — I have listened with much interest to the long debate on this important question, and it seems to me that those who advocate the amendment introduced by the gentleman from Pike, and the amendment proposed by the gentleman from Henry, have made statements upon the floor of this Convention which would lead one to believe that the farmers of the State of Alabama are standing as a solid phalanx and demanding that some such provision as this be put into the organic law of the State. From the way the gentlemen speak on that side of the question, one would think that the farmers cannot get justice at the hands of anybody except the farmers who happen to be upon this floor, but it occurs to me, Mr. President, that some of the most eloquent advocates of this amendment have been the lawyers upon the floor of this convention, and the author of the first amendment is as I understand it a lawyer, as is also the author of the second amendment. So I do not think there is anything in an argument or an appeal of that character.

Another suggestion has been made, which it seems to me is altogether improper, because it is not putting the argument nor the discussion upon that high plane which it should occupy, and that by insinuation or inuendo to make it appear that members who oppose this amendment upon this floor, are opposing it from selfish motives. It is not my purpose to cast aspersions upon any delegate, or upon the motive of any man who advocates a measure upon the floor of this Convention, but since it has been charged that the corporations and dealers who manufacture and sell fertilizers are interested in having this tax repealed and reduced it seems to me that if it is an argument to say that a member who opposes it comes from a county, as I do, that has an agricultural school, that it is equally as good an argument to say that the member proposing the amendment comes from a county that contains one of the biggest fertilizer factories in the State of Alabama, and I say that without any reflection upon the gentleman—

MR. SAMFORD (Pike) — Thas same statement has been made on this floor before, and I want to state to the gentleman from Limestone, and to the gentleman from Russell, that I am not in any way connected with the fertilizer factory at Troy, and have never had and do not now own a dollar's worth of stock in it.

THE PRESIDENT—The gentleman from Limestone has the floor, and unless he consents to an interruption—

MR. PETTUS—I am very glad to consent for the gentleman's question of privilege, and as I stated, I mean no reflection upon him. I was simply answering the argument in the same manner in which it has been made; that he comes from a county

that has a fertilizer factory, and I come from one that has an agricultural school, and I do not doubt that his motives are altogether correct, and altogether pure.

Now, Mr. President, it seems to me that this tag tax is in the nature of a license tax. We have license taxes, as has been stated by other delegates, upon peddlers, upon sewing machine agents, on corporations, and we have various licenses and privilege taxes of this character, but so far as I am informed this is the only license tax a large part of which is spent for the purpose of seeing that the goods which are licensed to be sold, are kept up to a high standard of purity and excellence.

Now as far as the agricultural schools are concerned, criticism has been indulged upon those institutions, but so far as I can gather from the debate, Mr. President, the criticism has been made at the administration of the schools and has not gone to the merit of the question. These schools are comparatively new institutions in the State of Alabama, and it is admitted that they are doing a great work for the education of the children of this State. They are patronized by nearly all of the counties in the State of Alabama, and when they were established in the respective towns in which they are situated, those towns and counties made valuable donations and concessions in property, and money, to the State of Alabama, and it certainly would be unjust and improper at this time for this Convention of the people of Alabama to strike down their part of the contract and put the State of Alabama in the attitude of violating an apparent contract.

MR. CARMICHAEL (Coffee) — Is it not a fact that the property that has been given to the State is revertible in case the State sees fit to use it, and it can be used for local schools?

MR. PETTUS—Such is not any understanding of the proposition.

Now, Mr. President, as to the question of who is benefited should this tax be reduced. I am informed when it was reduced to 25 cents, that the farmers and those who bought fertilizers at retail, did not reap any benefit from it. Now, if you reduce it, and admitting that the consumer pays the tax, and by computation you find it only amounts to 5 cents per sack, a large proportion of which is paid, as stated by the gentleman from Talladega, by the colored tenants of this State, and it is about the only tax that most of those colored tenants pay, I do not believe, Mr. President, if this fertilizer is selling at $2 per sack now, and you reduce this tax, that any wholesale or retail dealer is going to reduce the price per sack to $1.95. I believe if the tax is reduced, that the manufacturer and dealer will continue to reap the reward, as they have been doing.

Now, Mr. President, it seems to me that this is not the time nor the place to go into the merits of this question. It seems to

me whether right or wrong, we should refer this matter to the General Assembly of Alabama, where it originated, and which is the proper forum in which to settle it. I am not one of those, Mr. President, who join in the general criticism of one of the great co-ordinate branches of our State government. It is true that General Assemblies, as well as other human institutions, have laid themselves liable to criticism in the past, and will do so in the future, and I doubt not that this distinguished aggregation of brains, talent and patriotism, which sets itself up here in some instances, it seems to hedge about and limit the General Assembly, the Executive and Judicial Departments, so that none of them can do any wrong, I doubt not that even this body may hear the voice of criticism before its work is completed, because the Convention, too, is human, and is liable to err.

Now, Mr. President, it seems to me that we should refer this matter to the Legislature, which is the forum of the people. The members of the General Assembly come fresh from the people, and I think that it is a body that can be trusted to do right, to correct any wrong that may have been perpetrated in the past, and to do right in the future, and they are responsible to the people and it seems to me that a distrust of the General Assembly of Alabama is little short of distrust of the people themselves.

MR. O'NEAL (Lauderdale) — Will the gentleman permit a question?

MR. PETTUS—Certainly.

MR. O'NEAL (Lauderdale)—Was the repeal of this tax made an issue in the last canvass for the Constitutional Convention?

MR. PETTUS—No, sir; it was not. But one issue was in the campaign that called this Convention to sit here, and that was that no backward step should be made in education in the State of Alabama.

MR. SAMFORD (Pike)—Will the gentleman permit a question?

MR. PETTUS—Certainly.

MR. SAMFORD—I would like to know what information the gentleman has with reference to the issues that were made in the wire-grass section of this State with reference to this matter.

MR. PETTUS—I have the general sources of information. The newspapers of the State, and I have never seen anything of that character intimated, and it certainly was not in the platform of the Democratic party, but in the platform of the Democratic party, Mr. President, and the Democratic organization, was laid down the broad and comprehensive plank that no backward step should be taken in matters of education, and it seems to me that

if the gentleman from Pike, or any other delegate on this floor would rise up and strike down the agricultural schools or any other well established educational institution in the State of Alabama, that he would be violating that plank of the Democratic platform, upon which he was elected.

MR. BURNS (Dallas)—Will the gentleman allow a question?

MR. PETTUS—Certainly.

MR. BURNS—Would you call saving seventy-five thousand dollars a year to the farmers of Alabama a backward step?

MR. PETTUS—No, sir; I say a backward step in Alabama would be to strike down these nine district agricultural schools in the State of Alabama, and I do not think the distinguished delegate can show that the repeal or revision of this tax would in any way save seventy-five thousand dollars to the farmers of Alabama.

MR. GREER—Has any member on the floor of this Convention favored or advocated the striking down of nine agricultural schools in Alabama?

MR. PETTUS—Whether or not they have advocated it in so many words, Mr. President, the effect of their speeches and the effect of the amendments that are proposed will be to strike down these agricultural schools.

MR. GREER (Calhoun) — That is simply a difference of opinion and judgment.

MR. PETTUS—Well, you are at liberty to take advantage of the difference of opinion.

Now, as I was saying in regard to distrust of the people and of the General Assembly of the State, it seems to me that this body should be one of the last to so distrust the people and to so distrust their representatives assembled in the General Assembly, for there are about one-third of the members on this floor that have at various times had the honor to serve in that branch of the State government, and barring myself, Mr. President, some of them are the most able and distinguished members on the floor of this Convention. It seems to me that if we are to be Don Quixote, and are to charge every windmill that appears upon the floor of this Convention, we will be sitting here until Christmas. I am willing to stay as long as necessary for delegates to remain for the purpose of considering matters that are proper and pertinent to be considered and put into the Constitution of the State of Alabama, but it seems to me we should not attempt to legislate upon every subject and every topic, and should not assume jurisdiction of matters which belong properly and should belong exclusively to the province of the General Assembly of Alabama.

MR. PALMER—We have had this subject pending for nearly three days. It is a very simple thing to arrange the matter if the gentlemen of the Convention will look at it in a practicable, sensible way. The gentleman from Talladega made a very eloquent and impressive speech, showing the advantage of this tax, and the amount of it, the advantages of the schools, and the cost of the buildings, and halls. I made my maiden speech in this Convention two days ago on this same subject, and I thought then I would say nothing more in this Convention until it adjourned. There is very little difference of opinion in this matter if you look at it right.

There is derived from this tax between seventy-five thousand and one hundred thousand dollars. To strike this down at once will be a serious blow to the amount of taxes that are collected in this State in a year. Let us go back to the bottom of the thing. Auburn was unfortunately selected as the site for the school. The Methodists of the State of Alabama gave the buildings to the agricultural school of the State as a present. The Agricultural College ought never to have been established at Auburn. It ought to have been put in one of the back counties, upon the edge of the sandy lands, and it ought to have been made strictly an agricultural and mechanical school. The shops there are perfect. The best in the South. The agricultural department is not what it should be, looking at it from the standpoint of a farmer. Auburn to meet this difficulty, had established through the Legislature, nine branch schools throughout the State, in order that agriculture might be taught in every district in the State. Now when a corps of physicians are called to treat a wound, that is sore and festering, and inflammation has set up to a great degree, the first thing they do is to clean the sore and then apply the antiseptic treatment. Now, as far as this tax is concerned, from the standpoint of a farmer, so far as the intelligent part of the farming interests are concerned, they care nothing about the tax, provided the money is applied to the purpose for which it should go.

MR. WEATHERLY—Will the gentleman allow me to ask a question?

MR. PALMER—Yes, sir.

MR. WEATHERLY—I remember the remark made by the gentleman from Washington the other day, in opening his speech, that we were all trying to do right and wanting to do right, provided we got the correct information. Now I want to ask him, who is it that pays this tax?

MR. PALMER—I will answer that. The consumer pays it. It is the policy of the United States that where goods are protected, the consumer pays the tax.

Now, so far as the tax is concerned, that is a small matter with the farmers. As I say cleanse these sores and make these

schools, at Auburn and elsewhere, what the people demand they should be. Now these schools are young institutions, they have just been established, and the buildings were put up at a great expense to the towns they are in. The lands have been donated. I have visited one of them repeatedly and when I said in my speech the other day they were not agricultural schools in the sense of the word, but they could be made agricultural schools and I do not want to strike them down. I do not want them abolished. I want them encouraged.

MR. BULGER—How much time do you think it would require to make them agricultural schools?

MR. PALMER—That depends upon the amount of energy, interest and money they have got.

MR. JACKSON—The time has nearly arrived for the adjournment. I move a suspension of the rules so that the gentleman can finish his speech.

There were expressions of dissent manifested.

MR. PALMER — Gentlemen you make these schools what they ought to be, what they are intended to be, and you won't hear one word of complaint from the farmers of this State. They want the schools. They need the schools. They will submit to any taxation. They will submit to any sacrifice to support them, and to up-build agriculture in this State.

I do not see any other way, gentlemen; the schools are new, the buildings have just been put up, and the thing has just started, and I move to table the whole thing, and let it go to the Legislature. (Applause.)

MR. SAMFORD (Pike)—Upon that motion I demand the ayes and noes.

MR. HEFLIN (Chambers)—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. HEFLIN (Chambers)—The gentleman from Washington at the conclusion of his speech moved to table both the amendments.

MR. GREER (Calhoun)—The hour for adjournment has arrived.

A DELEGATE—I move we adjourn.

THE PRESIDENT—The Chair will state the question if the gentlemen will be seated. The gentleman from Washington moves to lay on the table the pending amendment, and upon that the gentleman from Pike calls for the ayes and noes.

MR. OPP—I would like to ask the gentleman to withdraw his motion. (There were expressions of dissent.) I desire to state that I have been here thirty days and have not consumed a moment's time of this Convention.

Cries of "leave."

MR. REESE—I make a point of order.

THE PRESIDENT—The hour of adjournment has arrived.

MR. HEFLIN (Chambers)—I move that the rules be suspended.

MR. JACKSON—I rise to a point of order.

The clock having struck the hour of 1, the President made announcements of several committee meetings and the Convention adjourned until 3 p. m.

AFTERNOON SESSION

The convention was called to order by the President, and the roll being called showed the presence of 114 delegates.

Mr. Winn endeavored to secure recognition.

THE PRESIDENT—The Chair understood the gentleman from Washington to withdraw temporarily his motion to table?

MR. PALMER—I don't want to be instrumental in placing the gag law on the Convention. I think every man who wants to speak should be allowed to do so. The gentleman to my left, (Dr. Winn) and Mr. Greer and Mr. Opp, asked me specially to withdraw so that they can speak. If that is in order I am willing to do it.

THE PRESIDENT—The gentleman from Washington can withdraw his motion—

MR. PALMER—For those three men, if they will renew it. I think every man in the House has his mind made up on this matter.

MR. BULGER—I rise to a point of order. The gentleman from Washington has the power to withdraw the motion to lay on the table, but he has not the power to say who shall or shall not speak on the subject.

THE PRESIDENT—The point is well taken.

The delegate from Washington withdrew his motion to table.

MR. WINN—I rise to support the amendment of the gentleman from Pike. I shall have to do this in the manner I am accus-

tomed to doing in my profession. I know of but one way to examine a question. It is like examining a patient that is wounded. The first thing you must do where there is serious sickness is to remove all the clothing and get next to your patient. There have been a great many dressings of eloquence put on this but it has all been in the line of obscuring the question that is involved in this. Those who have opposed the amendment has persistently discussed, what will be the effects on these communities and schools that have benefited by the tax if we withdraw it? That is not the question. The question is simply one of justice. Is the tax just. Let us look at it and see who it taxes. It taxes simply one class of the citizenship of the State. The tax is imposed directly and only upon the farming interests of the country. Nobody else. And what becomes of the money? Is it expended solely in the interests of the farmer? Not at all. No one has contended that is true. Is it expended for the good of the public generally. Now here are $96,000 this year. I got this memorandum from the Department of Agriculture. The expense of the Agricultural Department according to the statement of that Department, including fairs, is $9,000 out of that $96,000. That leaves $87,000 to be heard from. Now let us see what becomes of that. Twenty-seven thousand five hundred dollars goes to the Agricultural Schools, these nine wonderful schools we hear of. The gentleman from Washington told us what a wonderful school one of them was. He visited it. Then where is the balance of this money? Sixteen thousand dollars goes to the Agricultural and Mechanical College at Auburn. That leaves $43,500. What becomes of that? Converted into a general fund. What position does that put the farmer in? It is simply collecting that much more tax, $96,000, out of him as a class than you collect out of the balance of the citizenship of this State. Is that just? My friend from Henry has been accustomed to being gouged in this way so long that he simply begs the question by saying, "Don't gouge so much." That is not right. If they have the right, if it is just, that they can collect 10 cents a ton on fertilizers from us, then if they need it they can take 50 cents or $1 or any other amount. Remember that all this time the farmer shirks nothing. There is nothing that he has that is not listed and taxed as every other citizen in the State. Then, why in the name of justice and common sense can you turn upon the farmer and tax him out of $96,000 more? I cannot understand how it ever was done. There is certainly no semblance of justice or equity in this and if I understand anything about the laws upon the basis of which Alabama is grounded they are equal justice and equal taxation to every man and every citizen regardless of what his vocation in life is. Is it possible that the proceeds, the wonderful income and wonderful profits from agriculture in this State so far exceed those of any other avocation in the State that it is just? Is that where you get your justice? That is not the record of the farmers. With the vast majority of them, it is a struggle from year to year to

support their families in a very humble way. And I tell you it is not the struggling farmers that get the bulk of the benefit of these agricultural schools, not at bit of it. It is that class of men who are able to send their children off to school and pay their bills.

Now, some of the poor fellows who happen to live close to the school house may be benefited some, but as a general thing it is the class that is better able to educate their children that is enjoying the advantage of this unjust tax.

Now, the gentleman from Talladega tells us it is the negro mainly that pays this tag tax.

MR. GRAHAM (Talladega)—I said he paid a large part of it.

MR. WINN—I stand corrected. And the gentleman said that he would stand here always and see that the negro was not confined to the amount of tax he paid in for school purposes. Now I propose to stand here always and see, if that negro pays that tax, that he shall be treated more justly than he has been. Treat the negro with justice, take that tax off. Is not he a poor hard working servant? Are you going to tax him with it because he is a negro and then stand up and say you will stay here always before he shall be confined for his education to the taxes that he pays into the State? Be just before you are generous.

The gentleman further says we are under contract with these district schools. Be just by all means and keep these contracts. On whose money? Money wrenched from the farmer unjustly. He says you would not tear down these schools. No, I would not tear them down, but if I have to keep them up by an unjust tax upon any people of this State, then I say let them go. We are not discussing what would be the result of doing an act of justice. That is the question and let results take care of themselves. That is our duty. We have the power and we have the means to support and sustain all the schools in this State of whatever character we determine to maintain, and to hesitate, to halt for one moment in doing this simple act of justice to the farmer is something I cannot comprehend. They say let this continue, don't raise any disturbance. That can be said of a great many things. They could say don't interfere with the school appropriations or the surplus money in the treasury or a great lot of other things. Suppose this does raise some disturbance, will that prevent us from doing it if it is an act of justice? I hope not.

I don't propose to criticise the schools and I won't do it except I may draw a little information from what my friend on the right has furnished me on his great school at Uniontown. He has ascertained another fact about the expenses of that school since he gave us the information the other day. He told us about that wonderful farm they had, the grape vine, twining around the house of civilization, and he told us about the tiles with one end stopped

up and they wouldn't tile, and he told you of the salary of $1,600, but he didn't tell you they had a doctor there at $1,200 a year

MR. KNIGHT—And there never has been a pupil there.

MR. WINN—No, and the only vocation that doctor had was to mark pigs. Now that's the way the money goes.

MR. WHITE—Will the gentleman allow me to make a suggestion? What difference does it make if it does go that way, nobody but the farmer pays it?

MR. WINN—No, nobody but the farmer pays it. Plenty of money and no poor kin. I tell you, gentlemen, just people, the deeper you probe into this question the more apparent is the outrageous injustice of it upon the farmers of Alabama. I appeal to you, gentlemen, of this Convention, to look at this matter seriously and remember the only question involved in this is one of justice. If this tax is just and equitable, keep it; if it is unjust, if it is oppressive, if it is discriminate, wipe it out. One of the delegates says, "away with such narrowness." My reply to that is away with your unjust tax.

MR. LONG (Walker)—Does the gentleman take the position that the farmers alone pay this tax?

MR. WINN—Yes, sir.

MR. LONG (Walker)—Then I will ask the gentleman a further question: Is it or not a fact that the tax which the State imposes on the doctors is paid by the patients?

MR. WINN—We generally get what tax out of the patients they are able to pay, and others do the same.

I am informed that the school at Marion is not a school at all, only an experiment station. I reckon that is on the same order a man with a salary of $1,600 and a doctor with $1,200. Now, gentlemen, I again for the last time appeal to you to consider this well and remember that the only question is as to the justice of the tax. If the tax is just and legitimate, hold it, if it is discriminate against the farmer, take it off. Though the heaven should fall, let justice prevail.

MR. OPP—I did not intend to make a speech when I requested the Delegate from Washington to remove the parliamentary padlock from my mouth, but only desired to explain the vote I intended to give on the pending proposition. And I was considerably surprised at the acute parliamentary skill which had so suddenly been acquired by the gentleman from Washington. He led us to believe he was so innocent as to all this thing of parliamentary practice and I did not know he had so readily grasped the idea of cutting off debate; therefore, it fell like a bolt from the blue to hear a motion to table emanate from his supposedly untrained lips.

Now, Mr. President, as I said at the outset, I did not desire to make a speech. All I desired or contemplated was to put myself on record on this pending proposition. I desired that record to be writ large like John Hancock's name to the Declaration of Independence, so that in future weeks or months, or years, it may rise before the fertilizer factories and those who represent them, when they are cackling and laughing at the adroit way in which they had flim-flammed the Constitutional Convention of Alabama. I desired it to be understood throughout the length and breadth of Alabama that Covington County had not been deluded by the fertilizer factories, and that she has seen and will continue to see clearly through the schemes they have sought to work upon the Constitutional Convention of Alabama.

Now, Mr. President, I desire to be distinctly understood. In no syllable or word of mine do I desire to be understood as reflecting upon any gentleman who has advocated the contrary side of this question. I know them to be able, pure, honorable, honest men who are incapable of entertaining an improper thought or a dishonorable intention. But, Mr. President, I believe—I am firmly convinced that if you will look between the lines as the gentleman well advised us to do, it will be discovered it is not the man with the hoe, it is not the man behind the plow, but it is the man behind the coupon clipper who is agitating this movement.

Now, I desire to ask each gentleman of all these assembled here, was anything said about this pending proposition when the question was before the people of whether or not we should have this Constitutional Convention? Did any gentleman in any freak of imagination ever dream that a body of men assembled for the purpose of framing an organic law for the State of Alabama would devote its time and talents to the discussion of a proposition like this instead of ascending to the lofty and sunny heights where the people intended to place them? Here, under the focal and central glare of the light of civilization instead of building a noble and beautiful structure that should be the admiration of future years and all posterity, we are groveling among guano tracks and proving false and recreant to the trust imposed upon us. I trust, Mr. President, we shall call a halt, that we will take a turn around ourselves and if some gentleman of towering talents can be found to lead us out of the wilderness, if he can "show us the way" to confine ourselves within constitutional bounds that gentleman will occupy a place in the hearts and gratitude of the people of Alabama, and Mr. President, like Ben Adhem, his name will lead all the rest.

So I say the gist of the whole matter is this, that regardless of the merits of the proposition, this is something with which the Constitution of Alabama has nothing to do. It ought to be relegated to legislation. I desire to say that the dominating note, the basic principle of many of the propositions that have been advo-

cated on this floor has been distrust of the Legislature which is illy in accord with the genius of our institutions, and I desire to thank the gentleman from Limestone for rising in his place and defending the Legislature of Alabama from the aspersions that have been so liberally showered upon that usually distinguished body of men. They are fresh from the loins of the people. They know the asperations of the common people; and if they can not understand the wants of the people, it is difficult to perceive how the gentleman from Pike and the gentleman from Henry, making goo-goo eyes at the Hill Billies can ever be induced to set them right on the matter of their dear duty.

But Mr. President, whether it is amongst the denizens of the hills or the men you find as you move amidst the long arcades of stately whispering pines in Covington county, all of these men in every district of the State are looking to this body to build a Constitution for the State of Alabama. We must quit discussing matters purely legislative, salaries of Governors and things of that character, advocated by as talented men as they were. All things of this kind should be relegated to the General Assembly, because it is competent to deal with them, and it does not lie within the purview and scope of a Constitutional Convention of the State of Alabama. We are continually talking about consumption of time, and it is a strange thing that it is only those gentlemen who have spoken to the point of exhaustion who have become conscious of the fact that we are consuming too much time in debate. I desire to say in behalf of my constituency that whether we consume much or little time, whatever time is necessary should be graciously and unquestioningly yielded to the deliberations of this body. If we stay in session from now until the withered leaves of November begin to rustle upon these pavements it is our duty to stay here at any and all sacrifices, to see that we have discharged the high and holy trust imposed upon us by the people. And when I look upon this Convention of shrewd men, men who know the great history of Alabama, who know the aspirations of this Commonwealth, it is amazing to me that we should depart from the duty and task that has been set apart to us by the people of Alabama and, as well said on yesterday, devote ourselves to matters of purely legislative detail. Why, after some time somebody will find out that some of the coroners do not receive sufficient pay for sitting on dead negroes and somebody will move to fix a fee of ten dollars for every dead darkey the coroners find and engraft it in the Constitution.

But to return to the fertilizer proposition. I think there is a large and corpulent African in the wood pile and we have sufficient negroes to deal with already without dealing with the Senegambian aforesaid, and I trust, gentlemen, will remember that all of this legislation in behalf of fertilizers was originally conceived in a spirit of love for the farmer. Why, when the agitation

was first made in behalf of genuine fertilizers, everybody was threatened with dire penalties and pains if they didn't vote for it. It was a movement in the interest of the agricultural classes and the Hill Billies all swarmed on Capitol Hill and they all had their clubs with them and the embryo statesmen were told that here is a movement in favor of the agricultural classes and if you don't support it with your voice and vote, and your influence, we will do you up. Consequently, in deference to the wishes and desires of the agricultural classes this beneficial legislation was placed upon the statute books, and now, they have discovered that it was a mistake and are threatening us with the same pains and purgatorial penalties that they held suspended over our heads before. I yield to no man in love for the farmer and I will say of the doctor or the lawyer or merchant, in fact everybody who has a vote, and some who have not.

Now this is all I desire to say. I want to go upon record as representing the Democracy, or rather the people of Covington County as being opposed to this movement. I am opposed to stigmatizing this Constitutional Convention by a movement which seeks to blow up and destroy the schools designed and intended for purely unselfish and generous purposes. I think you gentlemen all understand the merits of the pending controversy and I do not feel that I or any man can add one jot or tittle to the able and luminous argument made by the gentleman from Sylacauga.

MR. GRAHAM—I don't come from Sylacauga.

MR. OPP—Whatever place the gentleman hails from is honored in a high degree.

MR. BURNS—I rise to ask the gentleman a question.

THE PRESIDENT—Does the gentleman from Covington yield to the question?

MR. OPP—Yes, it is customary.

MR. BURNS—I would ask the gentleman if he is aware that when Mr. Hawkins and the representative farmers advocated this measure, they believed and honestly believed that these would be agricultural schools instead of such as they now are?

MR. OPP—I desire to say to the gentleman, who is a rare compound of Justinian and Josh Billings (immense applause) that I am wholly ignorant of Mr. Hawkins's connection with the pending controversy; know little and care less. The question we are dealing with is just this, aside from the humor, which the always humorous gentleman from Dallas is injecting into this controversy, that the great and crucial question is simply this: Shall we come down to brass tacks and build a Constitution for the State of Alabama or shall we descend to guano taxes, butter taxes, cheese taxes and other things of that sort? I say without dis-

respect to any gentleman, because it is easy to be hurried beyond our original intention upon the flood tide of this and similar debates, that it is high time we were side-tracking all these immaterial issues; and if the farmers or any other gentlemen think the imposition of this tax is unwise and unjust they should make a solid concerted attack upon the next Legislature and see that this tax is removed and that the injustice is remedied.

I submit that the legislatures of this State are always unduly sensitive and susceptible to any just and reasonable demand of the farmers of Alabama; and he has read the legislation of Alabama to but little purpose who dares to assert in the presence of intelligent men that the Democratic party has been faithless or recreant in, the discharge of its duty to the agricultural and to all working and other classes; and I trust that the pending amendments will be decisively defeated, that they will be cleared out of the way, and I will not say he who dallies as a dastard and he who doubts is damned, put I will say, when it comes to voting for this, that he who dallies is a daisy and he who doubts is a Democrat. (Applause.)

MR. BULGER—I have taken up very little of the time of this Convention. I have been content to listen to the arguments of learned gentlemen on the questions that have been presented to this Convention and then to cast my humble vote according to my judgment of the best interests of the people of Alabama I am a friend to all the institutions of learning in Alabama, from the log cabin school up to the University of the State, and I would not do or say anything that would detract from the interest of any school in our State. But I would invite the members of this Convention to go back to the question involved in this amendment. With all the eloquence I have heard upon this floor in opposition of this amendment, I have yet to hear one word or one syllable from any man saying that this tag tax upon the farmers of Alabama is a fair and just tax. None of them have said that. They all seem to put their defense on the side of the District Agricultural Schools in this State. But that is not the question before this Convention. The question before this Convention is will Alabama longer be a party to levying an unjust tax upon the people of Alabama, whether it be a farmer, a lawyer or a doctor. The distinguished gentleman from Talladega says if this amendment passes it is a clear loss to the State of $75,000.

MR. GRAHAM (Talladega)—$135,000, I said.

MR. BULGER—If this law passes it leaves that $135,000 in the pockets of the farmers of Alabama, and if it is there it is far from lost.

MR. GRAHAM (Talladega)—Will the gentleman permit a statement?

MR. BULGER—Certainly.

MR. GRAHAM (Talladega)—The $135,000 I referred to is the school property, not the tax. I would like to know how the farmers will get the school property.

MR. BULGER—When the gentleman from Talladega interrupted me I was telling that he had suggested if this amendment were passed, it would lose the State of Alabama the amount of the tag tax. I say if this law is passed, it will leave it in the pockets of the farmers of Alabama. If this law is unjust, this amendment is right; if this law is just, the amendment is wrong. That is the question before this Convention. He tells us there were 2,300 children in the agricultural schools who would be affected by the passage of this law. There are 600,000 children all over the State of Alabama who will be affected by this law, children who do not attend these agricultural schools. Twenty-three hundred children will be affected by the taking away of this money, but you will leave it where it belongs, and where it ought to stay, at home in the pockets of the parents of 600,000 children who go to the log cabin schools.

MR. ASHCRAFT--Will the gentleman permit a question?

MR. BULGER—Yes.

MR. ASHCRAFT — These twenty-three hundred children have fifty-three teachers which is an average of forty pupils per teacher. The public schools have about the same number, forty to a teacher. Where can the loss be?

MR. BULGER—I will come to that proposition in a minute.

MR. ASHCRAFT—If the same number of teachers have the same number of children, how can there be a loss to any of the children?

MR. BULGER — The gentleman from Talladega also said that we had no assurance that the repeal of this law would reduce the price of fertilizer. That is the point. I invite the gentleman to go with me to the line that divides the State of Alabama from the State of Georgia. I invite him to go on the Alabama side and buy a ton of fertilizer where we pay a 50 cent tax and then I ask him to step across an imaginary line into the State of Georgia and buy the same ton of fertilizer where they pay a 10 cent tax and he will find that he pays 40 cents a ton less in Georgia. That is the reason why the tax ought to be reduced.

MR. GRAHAM (Talladega)—In as much as the gentleman has addressed his remark to me, will he permit me to make a statement?

MR. BULGER—Certainly.

MR. GRAHAM (Talladega)—I have been told by a citizen of Chambers County that he can buy fertilizers at Lafayette, Ala., at the same price made by West Point, Ga.

MR. ROBINSON—I am the person referred to. I live within twelve miles of the Georgia line, between the county of Tallapoosa and the State of Georgia, and a good portion of the citizens of Chambers County get their fertilizer from West Point. The fertilizers at West Point are at the same price as at Lafayette, Ala., and Opelika, Ala. Opelika, Ala., and West Point, Ga., are on the same railroads. The town of Cusseta is ten miles from West Point and twelve miles from Opelika, and those people get their fertilizer from Opelika rather than West Point.

MR. WHITE—When the Georgia market is open to the Alabama farmer of course they put it at the same price but how is it with the men who live far inside of the State and cannot go to West Point, Georgia?

MR. BULGER—In reply to the honorable gentleman from Chambers, no longer ago than last Friday I was in conversation with a distinguished merchant of Lanette, which city is on the line of the two States. He told me that the tag tax in Georgia was ten cents and the tag tax in Alabama was fifty cents and the price of the fertilizer in Georgia was forty cents less than in Alabama. I have his word, and it was no less a person than Senator Norman of Chambers County. I leave that with the gentleman from Chambers and Senator Norman. I do not know what the facts are. I do not agree with my friend from Pike in his original proposition. I believe that fertilizer should be analyzed. I believe the purpose and motive that prompted the original enactment of this law was a good one and that it was passed for the benefit of the farmers of Alabama and to protect them against imposition anywhere, but I believe it is wrong to make the farmer pay more expense to have his fertilizer analyzed than necessary to be paid. We are now extracting from the farmers of Alabama $96,000 when $20,000 would pay for the analyzing of the fertilizer in this State and the expenses of running the Agricultural Department of this State If that is true, then we are collecting from the farmers $70,000 more than ought to be collected, and I am unlike the gentleman from Talladega, I do not believe that would be lost if left in the pockets of the people.

MR. JACKSON—I would ask if the fertilizers have a guaranteed analysis?

MR. BULGER—I understand that they have and a ten cent tax on the guano pays the whole expense.

MR. JACKSON—I understand they do not have.

MR. BULGER—I understand they do.

Now the distinguished gentleman from Talladega suggested that the negroes of Alabama paid largely of this tax. That is true, but at the same time the negroes get largely of the benefits of this tax. While $23,000 goes to the District Schools, the white schools,

$2,500 goes to the negro schools of this State, $1,000 of it goes to the Paterson School at Montgomery, which is a negro school, $1,500 to the Booker Washington School at Tuskegee, which is a negro school, and I submit for reply to the gentleman from Talladega, if the negro don't draw out more than he puts in, in that proportion?

MR. PILLANS—If this is so important as to require a discussion for a day or two in this Constitutional Convention, framing an organic law, could the gentleman or any of those sustaining his side explain why no ordinance was introduced and referred to a Committee so it might have been canvassed quietly and faithfully discussed in the Committee and reported to the Convention?

MR. BULGER—Because it was unimportant to do it, because it could be reached as well by the amendment, as is demonstrated on this occasion.

MR. PILLANS—May I ask another question?

MR. BULGER—Certainly.

MR. PILLANS—Then might not all the matters of novelty which have been introduced here have been offered by way of amendment to the Constitution of 1875 and a great deal of time have been saved?

MR. BULGER—I do not think so because all original questions have to be introduced by ordinance, but all may be improved upon by amendment. Now the gentleman who last addressed the amendment insisted that perhaps this was not a subject proper to go into the Constitution.

MR. SANDERS (Limestone)—Isn't it a fact that $50,000 of this fertilizer tax goes into the general educational fund of the State, after the agricultural schools have been provided for?

MR. BULGER—I am prepared to say that is not the fact.

MR. SANDERS—How much then does go into the general educational fund?

MR. BULGER—None of it.

MR. SANDERS—Into the general fund?

MR. BULGER—$7,700 of surplus that they are unable to spend in the agricultural department, in the Experiment Stations, in the negro schools and in the District Agricultural Schools, have to go into the general fund.

MR. SANDERS—Doesn't that surplus which goes into the general fund enable the common school appropriation to be increased?

MR. BULGER—I think so, but I think it is very unfair to make the farmer alone in Alabama put $37,700 more into the State treasury for general purposes than other people have to pay.

MR. SOLLIE—If the same amount were raised from general sources would not that also as well enable the State to make appropriation to the general schools?

MR. BULGER—I think it would, and much more fairly. Now we have said that the amount of this tag tax is $96,000. Perhaps we do not all know where this tax is appropriated and expended. My friend from Talladega read from the Auditor's report this morning that there was $75,000 and a little more, shown by the Auditor's report, that went into the treasury to be paid out. How is that reduced so low? The estimate for this year is a little more than that, some $10,000. Making any estimate on these figures, coming from a source where they are accurate or approximately so, the first reduction that is made is $9,000 paid out of the tag tax. That is expended in the different fairs. Some of it has gone to Buffalo, some of it went to Birmingham. That $9,000 is not reported to anyone. It is only expended by the Commissioner of Agriculture on the approval of the Governor.

It is not audited by the Auditor of the State of Alabama. That is where $9,000 goes, and if I did not know that we had a Commissioner of Agriculture who is not only a business and an honest, man, I would rather have it audited and know by record where it goes. In the salary of the Commissioner and clerks in his office they pay $5,300, expenses of his office besides his $2,000, the amount paid to nine white schools is $22,500. The negroes get $2,500.

MR. JACKSON—Did I understand the gentleman to say the Commissioner of Agriculture gets $5,000?

MR. BULGER—No, sir; I did not say that, I said the salaries of himself and the clerks in his office amounted to that. The Uniontown Experiment Station gets $2,500. I don't know whether it is worth it to the farmers of Alabama, but from what my distinguished friend from Washington says, I would have very great doubts on the subject. I think it is unfair to go into the interior among the farmers who use commercial fertilizers and extract from the $2,500 and pay it out for an enterprise in Alabama as described by the distinguished gentleman from Washington. If he is right, the levy of the tax is wrong. I am not attacking the Agricultural District Schools. Far from it. I am a friends to the schools but I am also a friend to the farmers of Alabama.

MR. LONG (Walker)—I would like to ask the gentleman a question.

PRESIDENT PRO TEM. (Heflin) — Does the gentleman consent to the interruption?

MR. BULGER—Certainly.

MR. LONG—Isn't it a fact you tried several years ago to locate one of these agricultural schools in your own town of Dadeville.

MR. BULGER—I did, and when it was put up to the highest bid I decided it was too high and didn't buy it. Wetumpka outbid us, and got the school.

MR. GRAHAM (Talladega)—I would like to know if the gentleman did not subscribe to the purchase fund?

MR. BULGER—I never did, nor anything like it. Now, gentlemen of the Convention, one other question and I am done. Is this a proper proposition to put in the Constitution of the State of Alabama? Some gentlemen say not. If not, why not? This Convention wants to know. It is a clear cut limitation on the taxing power of this State, and it there is any one thing above another that should be put into the organic law of this State, it is a limitation upon the taxing power of the State. But for that we would have little use for a Constitution in this State.

If it is not right to limit the power to levy a tax for the sale of fertilizers in Alabama, then I would say strike out the limitation in the Constitution of three-quarters of one per cent on the taxing power in this State. One is as much a limitation as the other, one is as much a constitutional provision as the other. Now, Mr. President, I desire to submit to have read by the clerk what I hold in my hand, as a part of my remarks. I know, as a parliamentary proposition, it cannot be offered now. I ask the clerk to read it as a part of my remarks.

The clerk read the statement as follows: Amend Section 1 by adding after the word "value" in the fifth line of this Section, the following: Provided, that the tax imposed for the privilege of selling commercial fertilizers in this State shall not exceed ten cents per ton; and provided, further, that the provisions of his amendment shall not take effect until January 1st, 1903."

Now, Mr. President, I shall, in due time, offer that substitute to the Convention, because I believe the fertilizer sold in this State should be analyzed and their true merit and value known to the farmer who buys them. I put the time off until the 1st of January, 1903, because some gentlemen have stated on the floor that contracts are now in existence with the teachers of some of the district schools in Alabama That being true, it gives them eighteen months more to comply on both sides with those contracts during the next year, and then leave it to the people and their representatives in the Legislature to provide for these District Agricultural schools like other schools in Alabama are supported. I have heard no reason here why these District schools should have more privileges in this State than other schools have. Children who are

educated in the log cabin receive their appropriations from the general fund, the University and Normal schools receive a part of their appropriations and support from the general fund. Place these Agricultural schools on the same basis, and then like the gentleman from Washington says, it will be equal rights to all and special privileges to none—the grand Jeffersonian doctrine to which he so eloquently alluded.

MR. LONG (Walker) — I regret being absent and having missed a great deal of this argument. I have only been here two days. It seems that this show started up some time last week.

Mr. President, this is a matter that is clearly a legislative proposition, even if it had any merit in it. It has no more business in this Constitution than a dog law has down in South Alabama. The statement has been made upon this floor that the poor farmer pays this tax. I have had over twenty years' experience in selling guano to farmers and I love the farmers like we all love them, we like to use them, and that is the reason we have so many lawyers and great statesmen so much in love with them because while they have never farmed, they have spent years running around all day and a good part of the night in the hope to reach some provision. Now the tax is 50 cents a ton and it has been said upon this floor that there was some rascality upon the part of the last Legislature of which I was a member, because this tax was not reduced. It is a well known fact that it was not reduced because our late lamented Governor did not want it reduced and sent to the Agricultural Committee and made that fact known to them. He took the position, and wisely, that a reduction of 20 cents a ton would not benefit a single farmer in Alabama, and it would cripple some of the schools. You take that 50 cents tax off and I am one of those heartless merchants you hear about, and the trust that controls most of the guano factories and with which those who are not owned by it work and they would not reduce the price of fertilizer one cent, and if they did the merchant to whom they reduced it would not reduce it one penny to the farmer. Now, this is a plain proposition. The kitty is too small to divide out. The trust gets the first hit and the merchant the second and what would be left for the poor farmer out of 50 cents? Every merchant pays a tax of $1 when he sells guano. It goes to the Agricultural fund. You don't hear anybody getting up and saying that is an outrage upon every merchant of Alabama. You can save a thousand dollars to the merchants of Alabama by taking that little pittance of $1 off, but where is there a man here who is foolish enough to say that the poor farmer would be benefited? A merchant sells 1,000 pounds of guano and he pays a dollar tax for selling it and if you would take that dollar off and divide it among the farmers it would only be one mill per ton or a penny a carload. Do you think the merchant would be just enough to remit to each farmer buying a ton a postal card?

That is the proposition here. It is but child's play to tell you that the farmer will get any benefit from it. I tell you I know whereof I speak. I have sold guano in Georgia, and I have sold it in Alabama, and I am today a dealer in it. It is an insult to every merchant in Alabama to say that he cannot buy guano as cheaply as the merchants in Georgia. They do do it, and they sell it just as cheap, and I want to state that the chemical department of the State of Georgia has no connection whatever, directly or indirectly, with any school.

MR. SMITH (Morgan M.)—May I ask the gentleman a question?

THE PRESIDENT PRO TEM.—Does the gentleman consent to be interrupted?

MR. LONG (Walker)—Yes.

MR. MORGAN M. SMITH—Do you mean to say that if there was a tax of five dollars a ton on guano and it was taken off that it would sell at the same price?

MR. LONG (Walker)—No sir, the kitty would be larger, and the farmer would get some reduction in that event. But with fifty cents, he does not.

The chemical department in the State of Georgia, as I started to say, has no connection with any school of the State of Georgia. It is located in the Capitol at Atlanta. The Georgia Legislature annually appropriates out of the general fund seven thousand dollars to maintain it. You therefore see that Alabama, while it appropriate nothing, has a laboratory at Auburn that should be a pride to every Alabamian. Why, sir, it is noted all over this country as one of the best schools, and the best equipped school almost in that department, south of Harvard University. Whenever they get up a dispute over the analyses in the State of Georgia, they almost always invariably refer the matter to the Chemical Department at Auburn, Alabama merchants pay no more than the merchants in South Carolina for their goods, and the tax there is five cents a ton. Guano is sold for either so much currency or it is sold for so much cotton, but who ever heard of farmers buying guano for two hundred and ninety pounds of cotton? It is either two hundred and seventy five pounds a ton, or three hundred pounds, or some even number like that. They do not buy guano for $19.65 a ton; they buy it for twenty dollars a ton, or twenty-one and a half, or twenty-two, or some even amount like that.

There isn't a merchant in Alabama that sells more than one grade of guano, but what has three or four that cost him less, yet he will quote it all at the same price, a dollar and a half, or one seventy-five, or two and a quarter a sack, or twenty-two or twenty dollars a ton. It has been stated upon this floor that Georgia has a guaranteed analysis. I state that it is not the fact. Alabama

has, and every farmer in this State that buys a sack of guano, or a car load, can send to Auburn, and if it does not come up to that guaranteed analysis, he can refuse to pay one penny for it, and the merchant cannot collect one farthing for it, and the expense of it is free to him. That is not the case in the State of Georgia.

MR. MALONE—You say that Georgia has no guaranteed analysis?

MR. LONG (Walker)—That is what I stated.

MR. MALONE—Is it not a fact that you cannot sell it in Georgia unless it has twelve per cent. available matter?

MR. LONG (Walker)—Yes, sir, but there is a difference between an analysis and a guaranteed analysis. The gentleman I understand is in the guano business, and he knows there is a good deal of difference between the one and the other.

MR. MALONE—I want to show you that I know what I am talking about. Is it not a fact that in Georgia you cannot sell guano of any kind unless it has twelve per cent., and that you have to furnish with every shipment you send there a statement of what the analysis is, and if it does not come up to this analysis, that you release your claim for pay?

MR. LONG (Walker)—I will answer the gentleman.

MR. MALONE—And is it not a fact that when that is so, they send a man there into the fields and sample the stuff themselves. And another thing—I want to ask one more question—I will ask no more. You say a man in Alabama pay no more than in Georgia. Don't you know that it is a fact that right below the Georgia prices it says "add forty cents for Alabama?" Don't you pay that?

MR. LONG (Walker)—No, sir, I don't pay any more than any merchant in Georgia, and I have this year had Georgia manufacturers to refuse to furnish it at the same price as Birmingham, Alabama, on a nine, two and two per cent. goods. And, Mr. President, while Georgia places upon it her analysis, it is entirely different from the analysis placed upon it by the State of Alabama. Their commercial value placed upon a sack in the State of Georgia will not stand, and it does in the State of Alabama. They are always about two to three dollars per ton higher in commercial values in the State of Georgia than they are in the State of Alabama, but it is a fictitious value, and while it may stand the test so far as Georgia is concerned, it will not stand a just test anywhere on earth, and there is no forfeiture if it does not come up to it.

Now, Mr. President, it is true that a few years ago the State of Georgia and the Carolinas led in the fertilizer business. This was so because they had the majority of the phosphate rock, and

until the phosphate fields were discovered in Tennessee they furnished nine-tenths of the fertilizer in the South, but that is no longer the case, and Tennessee phosphate rock today stands higher than any phosphate rock of South Carolina, and for that reason there can be no just cause whatever for the statement, and it is unjust to get up here and say that merchants in Alabama pay more than the merchants in Georgia do for guano It is not the fact, and you may take off the tax if you will, but the farmer will not reap one penny of benefit from it.

I come from a county that has no agricultural schools, nor any guano factories and I tell you our farmers are satisfied with the law just as it is. I have never heard any clamoring for its repeal, although they use a great deal of fertilizer in my county. It seems that there is a class here who are not farmers themselves that want to legislate something into the Constitution for the poor farmer, and they jump behind the poor farmer to get something into the Constitution that will stand for ages, like a snag in a water pool for a boy. It has no business in the Constitution. We cannot put all the legislation in the Constitution that is needed. The delegates on this floor seem to ignore the fact that everything we leave out of the Constitution we leave for the people. Everything that you leave out of the Constitution is left to the people. Everything that you put in the State Constitution is a shackle upon the people. Now you delegates love the people, so leave this thing out of the Constitution and let the people settle it. Why do you want to bind and gag them, when there is not one farmer in ten in Alabama who want any reduction in this tax.

Now, Mr. President, I do not desire to take longer time upon this Section. I did not intend to make a speech on it at all, but it sounds to me so ridiculous that men should get up here and make this appeal for the farmer, when I dare say there is not a man that handles guano in the United States but would gladly see this in the Constitution. It is a mistake to say that the farmers pay the tax. Do the patients pay the tax of $5 on the doctor for practicing medicine? As I asked the gentleman from Barbour, when they tax him $5 to practice medicine, does he charge it to his patient, and if the tax was taken off, would the doctor's fees be any less? The lawyers are taxed in many of our municipalities, $5, $10 and $20 to practice law. If you took that tax off would the lawyers' fees come down? Merchants are taxed for the purpose of doing business in municipalities, and they are taxed by the State. Take that tax off and would the price of goods decline? Do the farmers pay it? Why gentlemen, if you look at it fairly in the face, you know that the sum is too insignificant, and that they do not pay. When Alabama reduced the tax ten years ago to 25 cents, did the price of guano fall? Not one penny. When it was restored to 50 cents, did the price of guano increase? Not one penny.

MR. BURNS (Dallas)—Will the gentleman allow a question?

MR. LONG (Walker)—Yes sir.

MR. BURNS — Although there are lots of dealers in such stuff, I have been trying to get hold of some for two years. I want to know where I can get some guano?

MR. LONG (Walker)—Some people have to give mortgages to buy it. Some people pay cash for it. I don't know, but you can buy it if your credit is good.

MR. BURNS—I'll pay in advance for it, if you tell me where to get it.

MR. LONG (Walker) — You can buy guano right here in Montgomery, and you will find some stores selling it probably 40 or 50 cents a ton cheaper than others if you will look around.

MR. BURNS—Guano?

MR. LONG (Walker)—Yes, guano.

Now, Mr. President, I think we have taken up enough time on this question, and I think it is now time to take a vote on it. I therefore renew the motion made by the gentleman from Washington to lay the original proposition, the amendment, and the amendment to the amendment on the table.

MR. MALONE—I rise to a question of privilege. I made a statement a while ago as to what was the law in the State of Georgia, and the member denied it. I would like to verify the statement by the Code of Georgia. Section 1552 reads—

MR. LONG (Walker)—I make the point of order that a contradiction between a man who is interested in the sale of guano and myself is a matter that can be settled outside of this Convention. I make the point of order that it is out of order now, because I have called for the previous question and moved to lay the original proposition, the amendment, and the amendment to the amendment, on the table.

MR. SAMFORD (Pike)—I began this fight, and stirred up this discussion, and I would like the privilege of making a few remarks.

THE PRESIDENT PRO TEM.—The gentleman from Pike is out of order unless the gentleman from Walker will withdraw his motion.

MR. LONG (Walker)—I will not yield, Mr. President. I don't want to cut off anybody that wants to debate this question, but we have taken a great deal of time on it.

THE PRESIDENT PRO TEM.—The gentleman from Walker moved to lay the amendment to the section, and the amendment to the amendment on the table.

MR. SAMFORD (Pike)—And I demand the ayes and noes.

The call for the ayes and noes was sustained.

MR. PARKER (Elmore)—I call for a division of the question.

There were expressions of dissent to the call.

MR. ESPY—Certainly the delegate has a right to have this question divided. There may be a great many gentlemen here that might vote for the amendment, that would not vote for the original proposition.

MR. PETTUS—I rise to a point of order.

THE PRESIDENT PRO TEM—The gentleman will state the point of order.

MR. PETTUS—The gentleman from Walker moves to table both amendments, and the Chair has repeatedly held that was a matter in the discretion of the gentleman making the motion, and a call for a division is in order.

THE PRESIDENT PRO TEM—The Chair so rules.

MR. GREER Calhoun)—I rise to a question of inquiry. The Chair rules that there can be no division of the question?

THE PRESIDENT PRO TEM—The Chair ruled the motion of the gentleman from Walker was in order to table the amendment, and the amendment to the amendment, and it was in the discretion of the gentleman from Walker as to whether or not he would permit a division of the question.

MR. BULGER—I would like to hear the gentleman to my right (Mr. Espy) read.

The amendment was read.

Upon the call of the roll—

MR. CARMICHAEL (Coffee)—I am paired with Mr. Hinson, and if he were present he would vote aye, and I would vote no.

MR. McMILLAN (Wilcox)—I am paired with the gentleman from Jefferson, Dr. Cunningham, and if he were present he would vote aye, and I would vote no.

The vote resulted as follows:

AYES.

Ashcraft,
Beddow,
Bethune,
Boone,
Brooks,
Browne,
Burnett,
Carnathan,
Cobb,
Coleman, of Greene,
Craig,
deGraffenreid,
Eyster,
Ferguson,
Foster,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Greer, of Perry,
Harrison,
Hood,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Wilcox,
Kirk,
Kyle,
Ledbetter,
Locklin,
Long, of Walker,
Lowe, of Jefferson,
McMillan (Baldwin),
Martin,
Merrill,
Miller, of Wilcox,
Morrisette,
Norman,
Norwood,
Oates,
O'Neal, of Lauderdale,
O'Neill (Jefferson),
Opp,
Palmer,
Parker, of Cullman,
Parker, of Elmore,
Pettus,
Pillans,
Pitts,
Robinson,
Rogers, of Lowndes,
Samford,
Sanders,
Selheimer,
Sentell,
Smith, of Mobile,
Stewart,
Tayloe,
Waddell,
Walker,
Watts,
Weakley,
Williams, of Barbour,
Williams, of Marengo,
Wilson, of Clarke,
Wilson, of Washington,

Total—68.

NOES.

Almon,
Altman,
Banks,
Barefield,
Bartlett,
Beavers,
Blackwell,
Bulger,
Burns,
Byars,
Cardon,
Carmichael, of Coffee,
Case,
Chapman,
Cofer,
Coleman, of Walker,
Davis, of DeKalb,
Espy,
Fitts,
Fletcher,
Foshee,
Freeman,
Gilmore,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Jones, of Bibb,
Jones, of Hale,
Knight,
Leigh,
Lowe, of Lawrence,
MacDonald,
Malone,
Maxwell,
Miller, of Marengo,
Moody,
Mulkey,
Murphree,
O'Rear,
Pearce,
Phillips,
Porter,
Proctor,
Reese,
Reynolds (Henry),
Rogers, of Sumter,
Sanford,
Searcy,
Sloan,
Smith, Mac A.,
Smith, Morgan M.,
Sollie,
Sorrell,
Spears,
Spragins,
Thompson,
White,
Whiteside,
Winn,

Total—63.

ABSENT OR NOT VOTING.

Messrs. President,	Hinson,	McMillan, of Wilcox,
Carmichael, of Colbert,	Hodges,	NeSmith,
Cornwall,	Howell,	Renfro,
Cunningham,	Jones, of Montgomery,	Reynolds, of Chilton,
Davis, of Etowah,	King,	Studdard,
Dent,	Kirkland,	Vaughan,
Duke,	Lomax,	Willet,
Eley,	Long, of Butler,	Williams, of Elmore.

Before the announcement of the result, Mr. Samford (Pike) changed his vote from no to aye, for the purpose of moving a reconsideration tomorrow morning.

MR. GRAHAM (Talladega)—I make the point of order that the vote has not been announced.

MR. SAMFORD (Pike)—I cannot change my vote after the result is announced.

THE PRESIDENT PRO TEM—The Chair rules that the gentleman from Pike is in order.

MR. WHITE—I now move to lay the motion of the gentleman from Pike on the table.

THE PRESIDENT PRO TEM—The motion is out of order at this time. The motion will go over until in the morning.

MR. LONG (Walker)—I make the point of order that you cannot make a motion to reconsider the vote on a motion to lay on the table. That decision was made by the President of this Convention some days ago.

MR. SAMFORD (Pike)—I then give notice that I will either make a motion to reconsider, or to take from the table, as the case may be.

THE PRESIDENT PRO TEM—The Chair has ruled that the gentleman from Pike has the right to change his vote and to give notice to the Convention that on tomorrow he will make a motion to reconsider.

The Chair announced that by a vote of sixty-eight ayes to sixty-three noes the amendment and the amendment to the amendment were laid upon the table.

Mr. Samford (Pike) secured recognition—

MR. SAMFORD (Pike)—I yield to the gentleman from Jefferson.

MR. LONG (Walker)—I will ask what is before the House?

THE PRESIDENT PRO TEM.—The question before the House is the consideration of the original section of the report of the Committee on Taxation, Section 1, and the Clerk will read the amendment.

The amendment was read as follows:

Amend Section 1 of Article II, as reported by the Committee on Taxation, by adding after the word "value" in the fifth line of said section, the following: "no tax for inspecting any merchandise or commodity shall be imposed or collected, in excess of an amount sufficient to pay for the actual cost of the inspection thereof."

MR. HARRISON—I rise to a point of order.

THE PRESIDENT PRO TEM.—The gentleman from Lee will state the point of order.

MR. HARRISON—I would like to invite the attention of the President, in order to keep our records right, if I understand the rule of the permanent President, the motion of the delegate from Pike, to reconsider a motion to lay on the table, as clearly not in order, under Rule 27.

MR. SAMFORD (Pike)—I rise to a point of order.

THE PRESIDENT PRO TEM.—The Chair understood the gentleman from Pike to finally state that he changed his vote from no to aye, in order that he might move tomorrow for a reconsideration.

MR. HARRISON—I desire to read, or ask the Chair to read Rule 27.

THE PRESIDENT PRO TEM.—The Chair would be glad to read the rule, if he is in error.

MR. SAMFORD (Pike)—I rise to a point of order.

THE PRESIDENT PRO TEM.—The gentleman will state the point.

MR. SAMFORD (Pike)—The gentleman from Lee has no right to make his point of order now because that is a question that will come up tomorrow when I make the motion, and it is not before the House at this time, but the gentleman from Jefferson is addressing the Convention upon an entirely different proposition.

THE PRESIDENT PRO TEM.—I think that the gentleman from Lee can raise the point of order on tomorrow. Perhaps the Chair is in error.

MR. HARRISON—If the Chair desires, I can read the rule.

MR. SAMFORD (Pike)—I rise to a point of order.

THE PRESIDENT PRO TEM.—The Chair thinks the gentleman is not in order, but that the point of order can be made on tomorrow.

MR. HARRISON—I raise the point of order then, Mr. President, that the amendment offered by the gentleman from Jefferson, as I understand it, is the same that has just been tabled.

MR. WHITE—I call for the reading of the amendment. It is an entirely different proposition, and if the gentleman will listen to it he will so understand it.

The proposed amendment was again read.

MR. BOONE—I make the further point of order that this is not germane to Section 1, which we are considering. Section 1 provides for laying an ad valorem tax, as reported by the Committee on Taxation, and the amendment is in the nature of a special, or privilege tax, which is not germane to Section 1.

THE PRESIDENT—The gentleman from Jefferson will proceed.

MR. BOONE—What is the ruling of the Chair upon the point of order?

THE PRESIDENT PRO TEM.—The point of order the Chair understands the gentleman from Mobile to make is that the amendment is not germane to the subject under consideration.

MR. BOONE (Mobile)—Exactly, because one is an ad valorem tax, and the other is a special tax, and a special tax, as has often been decided by our Supreme Court is not such an one as is defined by that section of the Constitution which requires all taxes to be equal.

THE PRESIDENT PRO TEM.—The Chair would not like to make a ruling on that question, or rather the Chair would not like to decide that point. It is a matter for the Convention to determine when they vote upon this amendment to the question.

MR. WHITE (Jefferson)—Really, Mr. President this amendment is exactly what I wanted. I advocated the amendment of the gentleman from Pike because it was the only thing before the House, but this amendment limits the power of taxation upon any merchandise or commodity for the purpose of inspection to an amount which will not exceed the cost of the inspection.

I want to say, Mr. President and gentlemen of the Convention, that while much of the argument that has been made heretofore is entirely appropriate to this amendment, it may not all be so, but I understand to say that when any article of merchandise or other commodity is taxed, for inspection, then there should not be levied any other tax on that except for the purposes

of the inspection, where the inspection is needed. Any further tax than that is usurpation pure and simple. None of the argument which has been made. Mr. President, in opposition to this measure——

MR. KYLE—Will the gentleman permit an interruption?

MR. WHITE—Yes.

MR. KYLE—Is there an advalorem tax on guano?

MR. WHITE—Certainly there may be an ad valorem tax on guano. It is a tax on merchandise, like any other merchandise in a man's store.

MR. KYLE—I have heard gentlemen who handle it say that there is not.

MR. WHITE—It is because the Tax Assessor has not done his duty, if there is not.

Now, the opponents of this measure have not made the argument what tax does the farmer, or what tax does the merchant pay. Why, he pays all the taxes, on all his property, that any other property pays in Alabama, and why should a commodity or a piece of merchandise be taxed in addition to that for general purposes? Does not the farmer pay taxes upon his land, his agricultural implements, and his stock which he uses upon the farm? If he pays that, has he not paid as much as any other man who has property assessable for taxation in Alabama? Hasn't he paid as much as the mine owner? Hasn't he paid as much as the furnace operator? Then why impose upon him, or upon any other dealer in merchandise a tax in addition to that?

Why, Mr. President, and delegates to this Convention, there can be no equality or justice in it. The argument which has been made overlooks the great question of the inequality of taxation that is made by this measure. They tell us in glowing terms that nine Agricultural schools in Alabama need this blood to flow into them to give them life. I ask if this blood does not flow from somebody else, leaving less blood and less life there. They tell us, Mr. President, not that the taxation is just or equal, but they tell us, sir, they need the money. I appeal to the delegates upon this floor, and ask you if the highwayman at the point of his weapon when he makes you hand out what you have, has not the same argument for what he does? Claude Duval on Highland Heath declared that he robbed the rich to feed the poor. What are the opponents to this measure doing? They are robbing the poor to feed the rich. They haven't that argument on their side.

Remember, gentlemen of this Convention, that the precedent you set on this occasion may come up to trouble you in the future. Remember when you tax the farmer unequally and unjustly that

you lay the precedent for the laying of taxes upon other industries in Alabama, and the day may come when those industries may be assailed with all the eloquence and force with which this tax is attempted to be upheld.

MR. GRAHAM (Talladega)—Will the gentleman allow me to ask a question?

MR. WHITE—Yes, sir.

MR. GRAHAM (Talladega)—You stated a while ago that the farmer paid taxes on all his property like any one else. I ask you to read subdivision 8 of this Code.

MR. WHITE—You may read it yourself.

MR. GRAHAM (Talladega)—The following property to be selected by the head of each family, viz: Household and kitchen furniture, not to exceed in value $150; one yoke of oxen, one cart or wagon, two cows and calves, twenty head of stock pigs, ten head of sheep, all poultry, all cotton and other agricultural products which were raised or grown during the preceding year, and which shall remain in the hands of the producer thereof, and all manufactured articles, including pig iron, which shall remain in the hands of the manufacturer thereof on the first day of October of any year immediately succeeding that in which they were raised or produced; all provisions and supplies on hand for the current year, for the use of the family; (I understood the gentleman to say he paid taxes on agricultural implements) farming tools to the value of $25; one sewing machine in each family, when the taxable property does not exceed $250, etc.

MR. WHITE—Yes I am very glad you read it, for the farmer a few stock hogs and a yoke of oxen, and some other little insignificant items, but the pig iron in the hands of the manufacturer may amount to thousands and hundreds of thousands of dollars is laid by the side of it. There is another inequality, sir, almost as gross and glaring as the one which you undertake to impose by opposing this measure.

MR. GREER (Calhoun)—Will the gentleman allow a question?

MR. WHITE—Yes.

MR. GREER (Calhoun)—The household and kitchen furniture and the things alluded to there, applies to the gentleman from Talladega, a lawyer, just as well as to the farmer, does it not? It is an exemption to every citizen of Alabama.

MR. WHITE—That would be so if it were not for the fact that the lawyer generally milks somebody elses' cows. (Laughter.)

MR. REESE—The hour for adjournment has almost arrived, and I desire to move that the rules be suspended, and that this Convention remain in session until the pending question is disposed of.

The President resumed the Chair.

There were loud expressions of dissent.

THE PRESIDENT—Does the gentleman from Jefferson suspend for the purpose of entertaining the motion?

MR. WHITE—I do not think there is any disposition to suspend the rules. I think the hour for adjournment has arrived, and we may as well let the Convention adjourn and I will complete my argument in the morning.

MR. MORRISETTE—I ask unanimous consent to introduce an ordinance to be referred to a Committee.

The consent was given and the ordinance was read as follows:

Resolution No. 194, by Mr. Morrisette.

Resolved, By the people of Alabama in Convention assembled, That the next General Assembly of Alabama shall reduce the tax on fertilizer to 10 cents per ton.

Resolved, further, That the General Assembly at the same time shall provide for the support of the various Agricultural Schools in this State out of the general fund of the State.

Referred to Committee on Legislative Department.

MR. REESE—I move a suspension of the rules and that the resolution be adopted.

MR. MORRISETTE—I hope the gentleman will withdraw that motion. I asked that the resolution be referred.

MR. REESE—The motion is withdrawn.

MR. O'NEAL—I rise to a point of order.

THE PRESIDENT—Mr. Thompson requests leave of absence for Thursday, Friday and Saturday; Mr. Jones of Montgomery, requests leave of absence for today, if there is no objection the leaves will be granted.

MR. EYSTER—I ask unanimous consent to submit a communication for the benefit of the members of the Convention.

The communication was read, and it stated that the heat of the summer months, which the Convention was experiencing in Montgomery would be overcome by holding the sessions of the Convention at the Hotel Monte Sano, where a reasonable rate would be charged.

MR. SAMFORD—I move that it be referred to the Committee on Temperature.

MR. CHAPMAN—To the Committee on Temperature.

MR. SAMFORD (Pike)—To the Committee on Temperature, then.

The hour of adjournment having arrived, the Convention adjourned until tomorrow morning at 10 o'clock.

CORRECTION.

In proceedings of 29th day, it should read as follows:

MR. FERGUSON—Is it protection to life, liberty or property, putting the granting of pensions into the organic law? Since the gentleman hands it back to me. I say it is in direct conflict with that section.

THIRTY-FIRST DAY

MONTGOMERY, ALA.,
June 27, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by the Rev. Mr. Lamar, as follows:

Oh Lord, our God, recognizing Thy authority in all things, thanking Thee for the privilege of beginning and continuing and ending all our works in Thee, and Thy guidance to these thy servants in the labors which engage their hands, we pray Thee our Father that Thou wouldst direct them in all wisdom, that the work may be such as Thou alone canst establish by Thy blessing, such as will inure to the welfare of our people, such as will tend to give us long years of peace and prosperity. We pray that Thy blessing may rest upon each one of these Thy servants. May they be men who look to righteousness and seek with a single eye the good of the Commonwealth. Bless them we pray Thee in all their interests, in their families, in all that concerns them. May Thy protecting Providence be above this body this day. May their labors be such, O Lord, we pray Thee as they shall be proud of in the years to come, and as shall make the people rejoice. Accept us in this our prayers, forgive our sins and save us for the Redeemer's sake, amen.

Upon call of the roll one hundred and forty delegates responded to their names.

Leaves of absence were granted to Mr. Handley, indefinitely, on account of sickness; to Mr. Lowe (Lawrence), for today and tomorrow; Mr. Altman for today; Mr. Renfro for today, Friday and Saturday; Mr. Duke for yesterday; for Mr. Jones (Montgomery) for today.

MR. JONES (Montgomery)—I desire to explain, Mr. President, that I am an officer of the State Bar Association which meets tomorrow, and have to prepare a paper for that occasion, otherwise I would not ask the leave of absence.

THE PRESIDENT—The gentleman has been so constant in his attendance the Chair believes no explanation is necessary.

MR. JONES Montgomery)—I desire further to say to my friends who jocularly suggest that I am dodging the pending question, that I am paired with my friend, Mr. White of Jefferson.

MR. FLETCHER—I desire to ask consent to have the article on Banks and Banking made a special order after the article on State and County Boundaries. I suppose it would come up in its regular order, but it seems necessary to set it down as a special order, and I move that it be set down for consideration after the article on State and County Boundaries.

Upon a vote being taken the motion was carried.

The report of the Committee on the Journal was read, stating that the Journal for the thirtieth day had been examined and found to be correct, and upon motion the report was adopted.

MR. WADDELL—I move that we dispense with the regular order and proceed with the consideration of the question which was pending when the House adjourned on yesterday afternoon.

MR. OATES—I have no opposition to that provided the gentleman will make an exception so that I may submit the report of my committee.

MR. WADDELL—I will withdraw the motion for the present.

MR. OATES—I ask permission to submit the report of the Committee on Legislative Department.

Mr. Foster—The Committee on Amending the Constitution asks unanimous consent to send in its report.

THE PRESIDENT—The gentleman will have to hold the report until the Convention receives the report of the Committee on Legislative Department. The Clerk will read the report.

The report of the Committee on Legislative Department was thereupon read as follows:

Report of the Committee on the Legislative Department.

Mr. President.

The Committee on Legislative Department instruct me to report the accompanying ordinance to supply the place of the article to the present Constitution on the subject.

Without deeming it necessary to report specially upon the numerous ordinances and resolutions referred to it, the committee has carefully considered them, and substantially embodied in the new article a number of the propositions which they embrace. The ordinance herewith reported will show to what extent their provision have been adopted. These ordinances and resolutions are herewith respectfully returned.

The provisions of the following Sections of Article IV of the present Constitution are recommended for adoption without change: 4, 6, 7, 10, 11, 12, 13, 14, 16, 18, 19, 21, 25, 26, 28, 30, 33, 34, 35, 36, 39, 40, 41, 43, 44, 47, 48, 50, 51, 53, 55 and 56 down to and including Section 7, they have identified numbers in both articles. From 10 to 20 inclusive the corresponding matter is incorporated in sections of the new article numbered in each instance one less than the old from 25 to 28 inclusive three less, and after 28 two less.

In the following statement the material changes recommended by your committee are set forth in the order to which they relate to sections of article IV of the present Constitution, as numbered therein.

To conform to the usual and popular expression, the title of the Legislative Department is changed in Section 1 from "General Assembly" to Legislature." This amendment extends throughout the article.

By an addition to Section 2 the enacting clause of the bills etc., is not to be repeated, but sectional divisions are to be made, and designated by figures merely. This is done in the interest of brevity, and to prevent needless formality in the style of enactments.

Section 3 is changed in the respect that the terms of Representatives and Senators alike shall be four years. The provisions of Section 9 for issuance of writs of election by the Governor to fill vacancies is transposed to Section 3. Provision is made that Senators and Representatives shall be elected by the qualified electors on the first Monday in August, 1902, and every four years thereafter, unless the Legislature shall change the time of holding elections; and that the terms of office of both Senators and Representatives shall be four years. However, as the Senators from the odd numbered districts have still two years to serve, the chairman of this Committee recommends that the election of Senators in the even numbered districts at the general election in 1902 shall

be for the term of two years only, and that thereafter all the Senators and Representatives shall be elected to serve four years; and he also recommends that the Governor, Lieutneant-Governor, Secretary of State, Auditor, Treasurer, Superintendent of Education, Commissioner of Agriculture and Industries, the Attorney General, and all the Judges and County officers, including Sheriffs, be elected at the general election in 1904, to serve for four years, or, in case of the Judges, said judges to serve for eight years, should it be deemed advisable to lengthen their terms.

Section 5 is changed so as to provide for quadrennial, instead of biennial sessions of the Legislature. In view of the prohibitions to be placed on the Legislative power to pass local laws, there will be hereafter neither a demand nor a necessity for biennial sessions. The change is recommended on the additional grounds that it will prevent hasty and ill-advised attempts to repeal general laws before they have been long enough in force to admit of a fair test of their merits, and it will also conduce, by removing early opportunity for repeal, to mature and careful deliberation by the Legislature. The tendency to permanency of the legislative enactments will be greatly increased, and much expense saved to the State.

Section 8 is amended so as to add to its present requirements, that the House, as well as the Senate, shall elect one of its members Speaker at such times, other than the beginning of the session as may be necessary; and further, than in case of temporary disability of either presiding officer, the House to which he belongs may elect, from among its members a temporary presiding officer to take the place of the regular one during the latter's disability, and to receive during such time only the compensation to which the permanent officer is entitled.

Section 9 of the present article, except the portion transferred to Section 3 as hereinabove indicated, is omitted from the new article.

To prevent lobbying, Section 15 is amended so as to confine the privileges of the floor of either or both Houses to members of the Legislature, officers and employes of each House, the Governor and his secretaries, representatives of the press and such other persons as to whom either House by unanimous vote, may extend the privileges of its floor.

Section 17 of the new article, all officers, military as well as civil, are included in the prohibition against appointment of Senators and Representatives, during the term for which they were elected, to an office created or receiving added emoluments during such term.

To Section 20 are added the requirements that the reference of bills therein provided for must be to a standing committee of each

House, that the action of such committees thereon must be had in session, and that the facts of reference, action in session, and return must affirmatively appear on the Journal of each House.

For Section 22, the committee reports a substitute, embodying the requirements of the present section, and extending them to all amendments in either house, with the added requirement that every amendment must be entered at length on the Journal of the House in which the same is adopted.

The matters embraced in Sections 23 and 24 are fully covered by the report of the Committee on Local Legislation and the report supplementary thereto heretofore made by this committee.

To Section 27 are added the requirements that immediately before being signed by the respective presiding officers, every bill shall be read at length and the fact of such reading and signing entered on the Journals, but that the reading may be dispensed with by two-thirds of a quorum present, which shall be entered on the Journal.

The operation of Section 29 is enlarged, to expressly prohibit any county or municipality from increasing the pay of officers, employees or contractors, after service rendered or contract made.

To Section 31, relating to the origin of revenue bills, is added a requirement that at the beginning of each regular session the Governor, Auditor, Treasurer and Attorney General shall have prepared a general revenue bill, to be printed by the Secretary of State, and by the Governor laid before the House as soon as organized. This is deemed advisable in aid of the Legislature. A prohibition is added that no revenue bill is to be passed during the last five days of the session, the object being to avoid hasty legislation on matters of such moment, and allow the Governor ample time to consider such bills.

By the amendation of Section 32, no salary is to be increased by the general appropriation bill, and no appropriation made for any officer or employe, unless his employment and the amount of his salary have already been provided for by law.

To Section 37 is added a provision that by a two-thirds vote of each House the Legislature, when convened in extra session, may legislate upon subjects other than those designated in the calling proclamation of the Governor.

To the existing provisions of Section 42 are added amendments which make the offense of corrupt solicitation of members of the Legislature and other officers therein designated, punishable by imprisonment in the penitentiary, and which require the Legislature to provide—

(1) For the trial and punishment of these and like offenses, and (2) for the same to be given in charge to the Grand Juries in all the counties of the State.

Section 46 is changed in conformity to less frequent sessions of the Legislature, so as to require a codification of the statutes following that next after ratification of this instrument, once every twelve instead of ten years.

By addition to Section 49 it is made the duty of the Legislature to require the several counties to make adequate provisions for indigent idiots and insane persons.

From Section 52 the committee has struck out the prohibition against the power to tax property of agricultural or horticultural associations, so as to allow the Legislature to impose a tax upon such property. This section is further changed so as to confine the prohibition against taxing school property to that of public schools.

The prohibitions of Section 54 are modified to the extent of permitting the State to construct and own a railroad within its borders. This may become necessary to relieve the people from trusts or monopolies, or from unreasonable exactions on freights and passengers.

Your Committee recommend a number of new sections which are restrictive on legislative power, namely:

Against enacting laws for one or more counties, not applicable to all counties in the State, regulating costs and charges of courts and fees of officers;

Against authorizing payment of the salary of a deceased officer beyond the date of his death.

Against retiring any officer on pay, or part pay, or making any grant to such retiring officer.

Against donating, directly or indirectly, lands owned by or under the control of the State, and against selling such lands to corporations or associations for less price than subject to sale to individuals.

Against the remittance, release, postponement, diminution or extinguishment of any obligation or liability of any person, corporation, or association to this State, or to any political subdivision thereof, unless upon payment into the proper treasury, except that the Legislature is authorized, by general law, to provide for the compromise of doubtful claims.

These prohibitions are comprised in Sections 55 to 59 both inclusive of the article herewith reported.

Your Committee also report other new provisions as follows:

Sec. 27. Limiting aggregate appropriations during any regular session of the Legislature to the income from the revenues of the State for the current fiscal year, as estimated by the Governor and Auditor.

Sec. 60. Requiring the Legislature to provide, by general laws, for location or removal of county seats by a vote of the people.

Sec. 61. Prohibiting State or county officials from lobbying, or otherwise interfering with the usual course of legislation.

Sec. 62. Prohibits the Legislature from ever authorizing miscegenation, by intermarriage of any white person with a negro, or descendant thereof, to the third generation inclusive. This is recommended, looking to the preservation of the purity of blood of each of the races.

Sec. 63 is a new section requiring the Legislature to pass efficient laws for the regulation and reasonable restraint of trusts, monopolies and combinations of capital so as to protect the people against exorbitant prices upon articles of necessity, and to protect reasonable competition in any calling, trade, or business.

Sec. 64. Prescribing a new and more appropriate oath of office, to be administered to Senators and representatives, than the one which they now take.

Respectfully submitted,
William C. Oates, Chairman.

An ordinance to create and define the Legislative Department.

Be it ordained by the people of Alabama in Convention Assembled: That Article IV of the Constitution be stricken out, and the following article inserted in lieu thereof:

ARTICLE ——.

Legislative Department.

Section 1. The Legislative power of this State shall be vested in a Legislature which shall consist of a Senate and House of Representatives.

Sec. 2. The style of the laws of this State shall be: "Be it enacted by the Legislature of Alabama," which shall not be repeated, but the act shall be divided into sections for convenience, according to substance, and the sections designated merely by figures.

Each law shall contain but one subject which shall be clearly expressed in its title, except general appropriation bills, general revenue bills, and bills adopted a code, digest, or revision of statute; and no law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only; but so much thereof as is revived, amended, extended, or conferred, shall be re-enacted and published at length.

Section 3. Senators and Representatives shall be elected by the qualified electors on the first Monday in August, 1902 and every four years thereafter, unless the Legislature shall change the time of holding elections. The

terms of office of the Senators and Representatives shall be four years commencing on the day after the general election, except as otherwise provided in this Constitution. Whenever a vacancy shall occur in either house the Governor shall issue a writ of election to fill such vacancy for the remainder of the terms.

Sec. 4. Senators shall be at least 27 years of age and Representatives 21 years of age; they shall have been citizens and inhabitants of their respective counties or districts one year next before their election, if such county or district shall have been so long established; but if not then of the county or district from which the same shall have been taken; and they shall reside in their respective counties or districts during their terms of service.

Sec. 5. The Legislature shall meet quadrennially, at the Capitol in the Senate Chamber and in the Hall of the House of Representatives, (except in cases of the destruction of the Capitol, or epidemics, when the Governor may convene them at such place in the State as he may deem best), on the day specified in this Constitution, or on such other day as may be prescribed by law; and shall not remain in session longer than sixty days at the first session held under this constitution, nor longer than fifty days at any subsequent session.

Sec. 6. The pay of members of the Legislature shall be four dollars per day and 10 cents per mile in going to and returning from the seat of government to be computed by the nearest usual route traveled.

Sec. 7. The Legislature shall consist of not more than thirty three Senators, and not more than one hundred members of the House of Representatives; to be apportioned among the several districts as prescribed in this Constitution, provided, that upon the creation of any new county, it shall be entitled to one representative in addition to the number above named.

Section 8. The Senate at the beginning of each regular session, and at such other times as may be necessary, shall elect one of its members President thereof, to preside over the deliberations in the absence of the Lieutenant Governor, and the House of Representatives at the beginning of each regular session and at such other time as may be necessary shall elect one of its numbers as Speaker; and the President of the Senate and the Speaker of the House of Representatives shall hold their office respectively until their successors are elected and qualified. In case of temporary disability of either of said presiding officers, the House to which he belongs may elect one of its members to preside over that House any to perform all the duties of such officer under disability during the continuance of the same; and each temporary officer while performing duty as such shall receive only the same compensation to which the permanent is entitled to law. Each House shall choose its own officers and shall judge of the election, returns and qualifications of its members.

Sec. 9. A majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day and may compel the attendance of absent members, in such manner and under such penalties as each House may provide.

Sec. 10. Each House shall have power to determine the rules of its proceedings and to punish its members or other persons, for contempt or disorderly behavior in its presence; to enforce the obedience to its process; to protect its members against violence, or offers of bribe or corrupt solicitation; and with the concurrence of two-thirds of either House, to expel a member but not a second time for the same offense; and shall have all the powers necessary for the Legislature of a free State.

Sec. 11. A member of either House expelled for corruption shall not thereafter be eligible to either House, and punishment for contempt or disorderly behavior shall not be an indictment for the same offense.

Sec. 12. Each House shall keep a Journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in their judgment, may require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-tenth of the members present be entered on the Journal. Any member of either House shall have liberty to dissent from or protest against any act or resolution which he may think injurious to the public, or an individual and have the reasons for his dissent entered on the Journal.

Section 13. Members of the Legislature shall in all cases, except treason, felony, violation of their oath of office and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

Sec. 14. The doors of each House shall be opened except on such occasions as, in the opinion of the House, may require secrecy, but no person shall be admitted to the floor of either House while the same is in session except members of the Legislature, the officers and employes of the two houses, the Governor and his secretaries, representatives of the press and such other persons to whom either House by unanimous vote may extend the privileges of its floor.

Sec. 15. Neither House shall without consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

Sec. 16. No Senator or Representative shall during the term for which he shall have been elected be appointed to any office of profit under this State, which shall have been created or the emoluments of which shall have been increased during such term, except such offices as may be filled by election by the people.

Sec. 17. No person hereafter convicted of embezzlement of the public money, bribery, perjury, or other infamous crime, shall be eligible to the Legislature, or capable of holding any office of trust or profit in this State.

Sec. 18. No laws shall be passed except by bill, and no bill shall be so altered or amended on its passage through either House as to change its original purpose.

Sec. 19. No bill shall become a law until it shall have been referred to a Standing Committee of each House, acted upon by the committee in session, and returned therefrom, which fact shall affirmatively appear upon the Journal of each House.

Sec. 20. Every bill shall be read on three different days in each House and no bills shall become a law unless on its final passage it be read at length and the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the Journal, and a majority of each House be recorded thereon as voting in its favor, except as otherwise provided in this Constitution.

Sec. 21. —No amendment to bills shall be adopted except by a majority of the House wherein the same is offered, nor unless the amendment with the name of those voting for and against the same shall be entered at length on the Journal of the House in which the same is adopted, and no amendment to bills by one House shall be concurred in by the other, unless by a vote taken by yeas and nays, and the names of the members voting for and against the same be recorded at length on the Journal; and no report of a committee of reference shall be adopted in either house, except upon a vote taken by yeas and nays, and entered on the Journal, as herein provided for adoption of amendments.

Sec. 22. The Legislature shall pass general laws under which local and private interests shall be provided for and protected.

Sec. 23. The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery, in this State; and all acts, or parts of acts heretofore passed by the Legislature of this State, authorizing a lottery or lotteries and all acts amendatory thereof, or supplemental thereto, are hereby avoided.

Sec. 24.—The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the Legislature, after the same shall have been publicly read at length, immediately before the signing shall be entered upon the Journal; but the reading at length may be dispensed with by a two-thirds vote of a quorum present, which fact shall also be entered on the Journal.

Sec. 25.—The Legislature shall prescribe the number, duties and compensation of the officers and employes of each House, and no payment shall be made from the State Treasury or be in any way authorized to any person except to an acting officer or employe elected or appointed in pursuance of law.

Sec. 26.—The Legislature shall have no power to grant, or to authorize or require any county or municipal authority to grant, nor shall any county or municipal authority have power to grant any extra compensation, fee, or allowance to any public officer, servant or employe, agent, or contractor, after service shall have been rendered or contract made; nor shall any officer of the State bind the State to the payment of any sum of money but by authority of law.

Sec. 27.—During any regular session of the Legislature the aggregate appropriations made shall not exceed in amount the income from the revenues of the State for the current fiscal year, as estimated by the Governor and Auditor.

Sec. 28.—All stationery, printing, paper and fuel used in the Legislative and other departments of government shall be furnished, and the printing and distribution of laws, journals, department reports and all other printing and binding and repairing and furnishing the halls and rooms used for the meeting of the Legislature and its committees shall be performed under contract to be given to the lowest responsible bidder below a maximum price, and under such regulations as shall be prescribed by law; no member or officer of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the Governor. Auditor and Treasurer.

Sec. 29.—All bills for raising revenue shall originate in the House of Representatives; but the Governor, Auditor, Treasurer and Attorney General shall, before each regular session of the Legislature prepare a general revenue bill to be submitted to the Legislature for its action, and the Secretary of State shall have printed for the use of the Legislature a sufficient number of copies of the bill so prepared which the Governor shall transmit to the House of Representatives as soon as organized. The Senate may propose amendments to revenue bills. No appropriation or revenue bill shall be passed during the last five days of the session.

Sec. 30.—The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial departments of the State, interest on the public debt, and for the public schools. The salary of no officer or employe shall be increased in such bill, nor shall any appropriation be made for any officer or employe unless his employment and the amount of his salary have already been provided for by law. All other appropriations shall be made by separate bill, and each embracing but one subject.

Sec. 31.—No money shall be paid out of the Treasury except upon appropriation made by law, and on warrant drawn by the proper officer in pursuance thereof; and a regular statement and account of receipts and expenditures of all public moneys shall be published annually, in such manner as may be by law directed.

Sec. 32.—No appropriation shall be made to any charitable, or educational institution not under the absolute control of the State other than Normal schools established by law for the professional training of teachers for the public schools of the State, except by vote of two-thirds of all members elected to each House.

Sec. 33.—No act of the Legislature shall authorize the investment of any trust fund by executors, administrators, guardians and other trustees in the bonds or stock of any private corporation; and any such acts now existing are avoided, saving investments heretofore made.

Sec. 34.—The power to change the venue in civil and criminal causes is vested in the Courts, to be exercised in such manner as shall be provided by law.

Sec. 35.—When the Legislature shall be convened in special session there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, except by a vote of two-thirds of each House.

Sec. 36.—No State office shall be continued or created for the inspection or measuring of any merchandise, manufacturer or commodity, but any county or municipality may appoint such officers when authorized by law.

Sec. 37.—No act of the Legislature changing the seat of Government of the State shall become a law until the same shall have been submitted to the qualified electors of the State at a general election, and approved by a majority of such electors voting in the same; and such act shall specify the proposed new location.

Sec. 38.—A member of the Legislature who shall corruptly solicit, demand or receive or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, or person, any money, office, appointment, employment, reward, thing of value, or enjoyment, or personal advantage or promise thereof, for his vote or official influence, or for withholding the same, or with an understanding expressed or implied, that his vote or official action shall in any way be influenced thereby; or who shall solicit or demand any such money or other advantage, matter or thing aforesaid, for another as the consideration of his vote or official influence, or for withholding the same; or shall give or withhold his vote or influence in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be guilty of bribery within the meaning of this Constitution, and shall incur the disabilities provided thereby for such offense, and such additional punishment as is or shall be provided by law.

Sec. 39.—Any person who shall directly or indirectly offer, give or promise any money, or thing of value, testimonial, privilege, or personal advantage to any executive or judicial officer or member of the Legislature to influence him in the performance of any of his public or official duties, shall be guilty of bribery and be punished in such manner as shall be provided by law.

Sec. 40.—The offence of corrupt solicitation of members of the Legislature or of public officers of this State or of any municipal division thereof and any occupation or practice of solicitation of such division of such members or officers, to influence their official action, shall be defined by law, and shall be punished by fine and imprisonment in the penitentiary, and the Legislature shall provide for the trial and punishment of the offenses enumerated in the two preceding sections, and shall require the judges to give the same specially in charge to the Grand Juries in all the counties of this State.

Sec. 41. A member of the Legislature who has a personal or private interest in any measure or bill, proposed or pending before the Legislature,

shall disclose the fact to the House to which he is a member and shall not vote thereon.

Sec. 42. In all elections by the Legislature, the members shall vote viva voce, and the votes shall be entered on the journal.

Sec. 43. It shall be the duty of the Legislature 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 mode of adjustment.

Sec. 44. It shall be the duty of the Legislature, at its first session after the ratification of this Constitution, and within every subsequent period of twelve years, to make provision by law for the revision, digesting and promulgation of the public statutes of this State, of a general nature, both civil and criminal.

Sec. 45. The Legislature shall pass such penal laws as they may deem expedient to suppress the evil practice of duelling.

Sec. 46. It shall be the duty of the Legislature to regulate by law the cases in which deduction shall be made from the salaries of public officers for neglect of duty in their official capacities and the amount of such deduction.

Sec. 47. It shall be the duty of the Legislature to require the several counties of this State to make adequate provision for the maintenance of the poor, indigent, idiots, and insane persons.

Sec. 48. The Legislature shall not have power to authorize any municipal corporations to pass any laws inconsistent with the general laws of this State.

Sec. 49. In the event of annexation of any foreign territory to this State, the Legislature shall enact laws extending to the inhabitants of the acquired territory all the rights and privileges, which may be required by the terms of the acquisition, anything in this Constitution to the contrary notwithstanding.

Sec. 50. The Legislature shall not tax the property, real or personal, of the State, counties or other municipal corporation, or cemeteries; nor lots in incorporated cities or towns, or within one mile of any city or town, to the extent of one acre, nor lots one mile or more distant from such cities or towns to the extent of five acres, with the buildings thereon, when the same are used exclusively for religious worship, for public schools, or for purposes purely charitable.

Sec. 51. The Legislature shall by law, prescribe such rules and regulations as may be necessary to ascertain the value of personal and real property, exempted from sale under legal process by this constitution, and to secure the same to the claimant thereof as selected.

Sec. 52. The State may construct and own works of internal improvement having for their object the conveyance or transportation of passengers and freight, but shall not sell or mortgage such improvement, nor

lend its money or credit in aid of such; nor shall the State be interested in any private or corporate enterprise, or lend money or its credit to any individual, association or corporation.

Sec. 53. The Legislature shall have no power to authorize any county, city, town or other sub-division of tihs State to lend its credit, or to grant public money or thing of value, in aid of, or to, any individual, association, or company by issuing bonds or otherwise.

Sec. 54. There can be no law of this State imparing the obligation of contracts by destroying or impairing the remedy for their enforcement; and the Legislature shall have no power to revive any right or remedy which may have become barred by lapse of time, or by any statute of this State.

Sec. 55. The Legislature shall not enact any law for one or more counties, not applicable to all the counties in the State, increasing the uniform charge for the registration of deeds and conveyances or regulating costs and charges for the registration of deeds and conveyances or regulating costs and charges of courts, or fees, commissions or allowances of public officers.

Sec. 56. The Legislature shall not authorize payment to any person of the salary of a deceased officer beyond the date of his death.

Sec. 57. The Legislature shall not retire any officer on pay, or part pay, or made any grant to such retiring officer.

Sec. 58. Lands belonging to, or under the control of the State, shall never be donated, directly or indirectly, to private corporations or individuals, or railroad companies; nor shall such lands be sold to corporations or associations for a less price than that for which it is subject to sale to individuals; provided, that nothing contained in this section shall prevent the Legislature from granting a right of way, not exceeding 100 feet in width, as a mere easement, to railroads across State land, and the Legislature shall never dispose of the land covered by said right of way, except subject to said easement.

Sec. 59. No obligation or liability of any person, association, or corporation held or owned by this State, or by any county, or other municipality thereof, shall ever be remittted, released, or postponed, or in any way diminished, by the Legislature; nor shall such liability or obligation be extinguished except by payment thereof into the proper treasury; nor shall such liability, or obligation be exchanged or transferred except upon payment of its face value; provided, that this section shall not prevent the Legislature from providing, by general law, for the compromise of doubtful claims.

Sec. 60. The Legislature shall provide, by general laws, for the location or removal of county seats by a vote of the people of the county to be affected.

Sec. 61. No State or county official, shall, at any time, during his term of office except, either directly or indirectly, any fee, money, office, appointment, employment, reward or thing of value, or of personal advantage,

or the promise thereof, to lobby for or against any measure pending before the Legislature, or to give or withhold his influence to secure the passage or defeat of any such measure.

Sec. 62. The Legislature shall never pass any law to authorize or legalize any marriage of any white person and a negro or descendants of a negro to the third generation inclusive, though the ancestor of each generation be a white person.

Sec. 63. The Legislature shall provide by law for the regulation and reasonable restraint of trusts, monopolies and combinations of capital so as to prevent them from making, by such artificial means articles of necessity, trade or commerce scarce or by increasing the cost thereof to the consumer, or by preventing reasonable competition in any calling, trade or business.

Sec. 64. The Senators and Representatives shall, before entering on their official duties, take the following oath to wit: "I . . . . . , do solemnly swear (or affirm as the case may be), that I will support the Constitution of the United States and of the State of Alabama, and particularly observe and obey all the provisions of the latter relating to the Legislative Department, to the best of my ability, so help me God."

MR. OATES—I promised and now ask that the delegate from Jefferson, Mr. Weatherly, have leave, if he see proper hereafter, to file a minority report as to Section 63 in regard to trusts. He has not had the time to prepare it, and is not fully decided whether he will or not, but he has that right reserved to him, if he sees proper to file it.

I now ask that the report of the committee be printed, together with the article submitted, and that it be set down for hearing in the order of being reported, next after the last report submitted.

MR. LONG (Walker)—I do not object to the entire report, as it is rather lengthy, but only to that part of the report which relates to representation. We have a Committee on Representation, and they are ready to report, and I hope inasmuch as it is in the present Constitution under the head of Legislative Department, if it is to be continued under that head, I hope the distinguished Chairman will agree to consider that part of the report at the same time with the report of the Committee on Representation.

MR. OATES—I am willing that your report may come in with this, right after this report.

MR. LONG (Walker)—We just want to consider them together.

MR. OATES—The report of that committee can follow the report of this, upon that subject.

THE PRESIDENT — The gentleman from Montgomery moves that the report lie upon the table, with the ordinance reported, and that the gentleman from Jefferson be authorized to file a minority report, if he so desires. What time does the gentleman desire within which to file a minority report?

MR. OATES—I presume one day.

MR. BROOKS—Before that motion is put for the printing of the committee's report, I desire to rise to a question of privilege as to a matter which was before the committee. The section read just now by the Clerk, as reported from the committee, on the trust question, is not, and I desire to have the attention of the Chairman of the committee to what I am about to say, is not the section that was passed by the committee, or adopted by it. The members of the committee, and the Chairman will remember, that the ordinance on this subject was proposed by myself, and that after two separate votes on two distinct occasions, one where there was a long debate, the ordinance proposed by myself was adopted, the Chairman voting for it, stating at the time that he would endeavor to prepare a substitute which would be shorter than the ordinance proposed, which he thought too long, and I understood him to say that he would endeavor to prepare a substitute.

MR. BOONE—I rise to a point of order. All that matter can be explained when the article is before this Convention for action.

THE PRESIDENT—The gentleman is stating a question of privilege, and the Chair will hear the statement and necessarily must hear the statement before he can decide the question of privilege.

MR. BROOKS—As I was about to continue, without the vote of the Chairman of the committee in favor of that proposition, it obtained a majority vote, and I make this point, that the report as it comes in now is not the report in fact as it was adopted by the committee as to that particular section, and I maintain that I have a right, as a member of this Convention, and as a member of that committee, to bring the matter before this Convention, so that I may have a proper report of what was the action of the committee as to that particular section.

Now sir, if I have that right, then I want the proposition as it passed the committee, to be printed as a part of that report, and not an entirely different one. Now I understand from a conversation with my friend on yesterday, that he was preparing a substitute, which I supposed would be offered as an amendment, but certainly not as a part of the report of the committee.

THE PRESIDENT—Does the distinguished gentleman from Mobile move for a certiorari to bring up the papers? (Laughter.)

MR. BROOKS—I move this, Mr. President: I move that the section which was adopted by the committee be printed along with the other and I ask the Chairman of the Committee to state if I am not stating the facts as they are.

MR. OATES—The delegate from Mobile states the fact substantially, except in this, as to which I think he is slightly mistaken; that when the last vote was taken in the committee I voted against the striking out and putting aside of his proposition, stating at the time that I could improve it I thought, by making it briefer, and therefore I would vote against laying it aside. I thought the delegate from Mobile understood and accepted this view, and that I was delegated by the committee to prepare a substitute. But, in order that all differences may be set at rest, I will ask that his ordinance, which was adopted by the committee, be printed along with the report, for the satisfaction of himself and others.

While I think I drafted the section expressive of the substance of what was done by the committee, but in much briefer form, I will ask, as the delegate from Mobile insists that his proposition ought to go before the Convention, that his ordinance, which the committee adopted in fact, be printed to follow this report, that he may have the benefit of it.

MR. NeSMITH—I voted against the ordinance of the gentleman from Mobile, and stated that I would join in a minority report, but I do not care to discuss the matter, except to say if the ordinance is made a part of the committee's report I would like to reserve the right to join in the minority report.

MR. ROGERS (Sumter)—I would like to ask the chairman of the committee a question. We are not to understand that you endorse the ordinance introduced by the gentleman from Mobile, and the committee is further to understand you are against the minority as to this ordinance in its words?

MR. OATES—I stated the facts as to that. That this section was substantially the same and would be acceptable to the gentleman from Mobile, and in the haste I did not have the time to submit it to him.

MR. WEATHERLY—The statement of the Chairman of the Committee is correct, that the gentleman from Mobile consented that I might have an opportunity to present a minority report.

MR. MACDONALD—I am a member of the Committee on Legislative Department, and the gentleman from Mobile is wholly correct in his statement as to what occurred in the committee in reference to the adoption of his ordinance. The ordinance, or section proposed by the gentleman from Mobile contained a number of facts, or statements—

MR. REESE—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. REESE—The gentleman is out of order.

THE PRESIDENT—The Chair will sustain the point of order. The consideration of the report of the Committee on Executive Department is not in order at this time. All the objections made, go to impeaching the report, and the Chair is unable to rule on questions that are outside of the report. Prima facie the report is the report of the committee.

MR. MACDONALD—Will the Chair permit one word? It has been stated by the chairman of the Committee that this is not the action of the committee.

MR. REESE—I renew my point of order.

THE PRESIDENT—The point of order is sustained.

MR. BROOKS—I ask the indulgence of the Convention just one moment—

MR. WADDELL — I insist upon the point of order, Mr. President.

MR. BROOKS—To say that the chairman of the Committee himself has admitted that the report is not what was passed by the Committee.

MR. WEATHERLY—I insist upon the Chair ruling upon the point of order.

MR. BROOKS—The Chairman of the Committee has himself asked that the ordinance submitted by myself be printed—

MR. WADDELL—I gave the floor to the distinguished gentleman from Montgomery—

THE PRESIDENT—The question is on the motion of the gentleman from Montgomery that the report lie upon the table, and that time be allowed for a minority report.

MR. MERRILL—I move as a substitute for that the report be recommitted to the committee for the purpose of settling the difficulty that seems to exist.

MR. OATES—I hope that motion will not prevail—

THE PRESIDENT—The motion to recommit is not in order at this time. The Report of the Committee is not before the Convention for reconsideration.

MR. OATES—I will say in order to settle this, as the delegates are so much dissatisfied about the report, when it comes up

I will give them an opportunity to move to strike out what is put in there and offer his proposition—

THE PRESIDENT—The Chair has sustained the point of order that this matter is not open to discussion. The Chair is compelled to receive the report, which is prima facie the report of the Committee. If the gentlemen desire to impeach it as the report of the Committee, they will have to find some other method of doing so, when the report comes up for consideration.

MR. BROOKS—Do I understand then that this Committee's report as it is, is to be printed, and not a correct representation of what passed in the Committee? That this be printed and that which did pass the Committee will not be printed? Do I understand that to be the effect of it?

THE PRESIDENT—The effect will be that the report of the Committee as made by its chairman will lay upon the table and be printed as the report of the Committee.

MR. BROOKS—Notwithstanding the statement of the chairmen himself that my proposition should be printed along with it. Is it not competent for him to make that request?

THE PRESIDENT—It is competent and if the gentleman adds that to his motion, the Chair will submit it as a part of his motion.

MR. OATES—I request, to satisfy the gentleman, to let it be printed, following the report of the Committee.

THE PRESIDENT—The request of the gentleman will not be a motion before this Convention. It is for the Convention to say whether this report shall be printed. Does the gentleman make a motion that it be printed?

MR. OATES—I move that it be printed.

THE PRESIDENT—It is added to the motion that this ordinance introduced by the gentleman from Mobile be printed with the report of the Committee.

MR. WEATHERLY—I make no objection to that, provided the Committee's report shall show the statement of the fact that was the ordinance introduced by Mr. Brooks.

MR. MACDONALD—Will the gentleman permit me to ask him a question before he sits down? You advocate letting this report go to this Convention as a report of a majority of the Committee, when in point of fact it was not the majority, and put us in the fix of making a minority report here?

MR. WEATHERLY—I am not the proper tribunal to settle questions of fact occurring between the members of a committee.

THE PRESIDENT — That question can only properly be raised when it comes before the Convention for consideration. Any delegate, whether a member of the Committee or not, may move to recommit this report, on the ground that it is not the report of the committee, but the Chair cannot assume to rule this report out as not being the report of the Committee on Legislative Department when it is presented here by the distinguished chairman as the report of the committee.

MR. BROOKS—I rise to a parliamentary inquiry. I want to ask in view of the ruling of the Chair and the statement of the Chairman, if any delegate in this Convention has a right to enter a protest against a matter to this sort and have it spread on the Journal?

THE PRESIDENT—The Chair knows of no rule we have for spreading protests on the Journal, but the statement of the gentleman upon the floor will be published as a part of the official proceedings of the Convention.

MR. LONG (Walker)—I rise to a point of order. Before a motion can be made to print two reports, the rules will have to be suspended.

MR. O'NEAL (Lauderdale)—I rise to a point of order. Under the rules of the Convention whenever a report of the committee is made it is printed without a motion.

MR. HEFLIN (Randolph)—I call for the regular order, the report of Standing Committees.

MR. WADDELL—I gave the floor to the gentleman from Montgomery (Oates) for the purpose of making his report.

MR. OATES—A part of the motion I made was that this report be set down next in regular order of committees' reports.

THE PRESIDENT—The Chair put that as part of the motion and it was so ordered.

MR. CARMICHAEL (Colbert)—I ask permission to introduce a resolution in order that the Engrossing and Enrolling Clerk may proceed with the discharge of her duties.

Resolution 195. Be it resolved, that the Engrossing and Enrolling Clerk of the Convention, be, and she is hereby authorized to employ such assistance as may be necessary to properly discharge the duties of her office. This resolution shall take effect on and after the 24th day of June. Resolution was referred to Committee on Printing and Incidental Expenses.

MR. PITTS—I ask unanimous consent to submit the report of the Committee on Representation.

MR. PILLANS—If it is to be read I shall object. I intend to offer a resolution to go to the Committee on Rules for the future printing of these ordinances without their being read.

THE PRESIDENT—The Chair will call the attention of the gentleman from Mobile to the fact that the rules of the Convention require that ordinances shall receive three readings in the Convention. It receives one reading when it is introduced, when the committees reports it receives its second reading, and on its passage receives its third and final reading.

MR. PILLANS—I do not wish to differ with the Chair, it receives one reading when introduced, a second when acted upon and a third on final passage. All I wanted to do was to save time reading and re-reading sections before they were acted upon.

THE PRESIDENT—Does the gentleman object to the reading of the report of the committee?

MR. PILLANS—I understand the report is very short. I withdraw my objection.

MR. FOSTER—Is not the report of Standing Committees the order for this hour.

THE PRESIDENT—Yes.

MR. FOSTER—Does it require unanimous consent?

THE PRESIDENT — We are proceeding under unanimous consent. The regular order has not been taken up.

MR. ASHCRAFT—The rule requires that ordinances shall be read three times.

THE PRESIDENT—Yes.

MR. ASHCRAFT—The rules does not require that the report of the committee be read if it is printed in the proceedings.

THE PRESIDENT—The gentlemen seem to have been proceeding upon the idea that the report accompanying the ordinances will better enable the Convention to understand the ordinance when read.

MR. ASHCRAFT—Possibly that might be true if they were listened to, but if they are not how is it?

THE PRESIDENT—The Secretary will proceed to read the report of the Committee on Representation.

REPORT OF THE COMMITTEE ON REPRESENTATION.

Mr. President:

The Committee on Representation instructs me to submit the following ordinance for adoption as Article —— of the Constitution of the State of Alabama, viz.:

ARTICLE ——.

Section 1. The whole number of Senators shall be not less than one-fourth or more than one-third of the whole number of Representatives.

Sec. 2. The House of Representatives shall consist of not more than one hundred and five members, unless new counties are created, in which event each county shall be entitled to one Representative. The members of the House of Representatives shall be apportioned by the General Assembly among the several counties of the State according to the number of inhabitants in them respectively, as ascertained by the decennial census of the United States; which apportionment, when made, shall not be subject to alteration until the next session of the General Assembly after the next decennial census of the United States shall have been taken.

Sec. 3. It shall be the duty of the General Assembly at its first session after the taking of the decennial census of the United States in the year 1910, and after each subsequent decennial census, to fix by law the number of Representatives and apportion them among the several counties of the State according to the number of inhabitants in them respectively; provided, that each county shall be entitled to at least one Representative.

Sec. 4. It shall be the duty of the General Assembly at its first session after the taking of the decennial census of the United States in the year 1910, and after each subsequent decennial census, to fix by law the number of Senators, and to divide the State into as many Senatorial Districts as there are Senators, which districts shall be as nearly equal to each other in the number of inhabitants as may be, and each shall be entitled to one Senator and no more; and which districts when formed should not be changed until the next apportioning session of the General Assembly after the next decennial census of the United States shall have been taken; provided, that counties created after the next preceding apportioning session of the General Assembly, may be attached to Senatorial districts. No county shall be divided between two districts, and no district shall be made of two or more counties not contiguous to each other.

Sec. 5. Should the decennial census of the United States, from any cause, not be taken, or if, when taken, the same as to this State, is not fully satisfactory, the General Assembly shall have power, at its first session after the time shall have elapsed for the taking of said census, to provide for an enumeration of all the inhabitants of this State, and once in each ten years thereafter, upon which it shall be the duty of the General Assembly to make the apportionment of Representatives and Senators as provided for in this Article.

Sec. 6. Until the General Assembly shall make an apportionment of Representatives among the several counties, at its first session after the taking of the decennial census of the United States in the year 1910, as herein provided, the counties of Autauga, Baldwin, Bibb, Blount, Cherokee, Chilton, Choctaw, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, DeKalb, Escambia, Fayette, Franklin, Geneva, Greene, Lamar, Lawrence, Limestone, Macon, Marion, Marshall,

Monroe, Pickens, Randolph, St. Clair, Shelby, Washington and Winston shall each have one Representative; the counties of Barbour, Bullock, Butler, Calhoun, Chambers, Clarke, Elmore, Etowah, Hale, Henry, Jackson, Lauderdale, Lee, Lowndes, Madison, Marengo, Morgan, Perry, Pike, Russell, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, and Wilcox shall each have two Representatives; the counties of Dallas and Mobile shall each have three Representatives; and the county of Jefferson shall have seven Representatives.

Sec. 7. Until the General Assembly shall divide the State into Senatorial districts, as herein provided, the Senatorial districts shall be as follows: First District, Lauderdale and Limestone; Second District, Lawrence and Morgan; Third District, Blount, Cullman and Winston; Fourth District, Madison; Fifth District, Jackson and Marshall; Sixth District, Etowah and St. Clair; Seventh District, Calhoun; Eighth District, Talladega; Ninth District, Chambers and Randolph; Tenth District, Tallapoosa and Elmore; Eleventh District, Jefferson; Fourteenth District, Pickens and Sumter; Fifteenth District, Autauga, Chilton and Shelby; Sixteenth District, Lowndes; Seventeenth District, Butler, Conecuh and Covington; Eighteenth District, Bibb and Perry; Nineteenth District, Choctaw, Clarke and Washington; Twentieth District, Marengo; Twenty-first District, Baldwin, Escambia and Monroe; Twenty-second District, Wilcox; Twenty-third District, Henry; Twenty-fourth District, Barbour; Twenty-fifth District, Coffee, Crenshaw and Pike; Twenty-sixth District, Bullock and Macon; Twenty-seventh District, Lee and Russell; Twenty-eighth District, Montgomery; Twenty-ninth District, Cherokee and DeKalb; Thirtieth District, Dallas; Thirty-first District, Colbert, Franklin and Marion; Thirty-second District, Greene and Hale; Thirty-third District, Mobile; Thirty-fourth District, Cleburne, Clay and Coosa; Thirty-fifth District, Dale and Geneva.

I return herewith all ordinances referred to committee.

P. H. PITTS,
Chairman Committee on Representation.

Mr. President:

I submit herewith a report of a minority of the Committee on representation.

P. H. Pitts,
Chairman Committee on Representation.

Minority report of Committee on Representation.

Mr. President:

The undersigned members of the Committee on Representation beg leave to submit the following report:

We recommend that Section 2 be amended by striking out the words "one hundred and five members," and insert "hundred members". Also by striking out the words "next session" and insert "first session."

We also recommend the striking out all the first part of Section 3 down to the words "fixed by law" and insert in lieu "The General Assembly may after the adoption of this Constitution, and shall after its first session, after each decennial census of the United States thereafter"—

We further recommend the striking out of all the first part of Section 4 down to the words "into as many senatorial districts" and insert instead "The General Assembly may after the adoption of this Constitution and shall at its first session after each decennial census of the United States thereafter fix by law the number of Senators and divide the State"—

We further recommend that Section 6 be amended as follows:

Sec. 6. Until the General Assembly shall make an apportionment of Representatives among the several counties of Autauga, Baldwin, Bibb, Blount, Butler, Cherokee, Chilton, Choctaw, Clay, Cleubrne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, DeKalb, Elmore, Escambia, Etowah, Fayette, Franklin, Geneva, Green, Lamar, Lawrence, Limestone, Macon, Marion, Marshall, Monroe, Pickens, Randolph, Shelby, St. Clair, Walker, Washington, Winston, shall each elect one representative. The Counties of Barbour, Bullock, Calhoun, Chambers, Clarke, Hale, Henry, Jackson, Lee, Lauderdale, Lowndes, Madison, Marengo, Morgan, Perry, Pike, Russell, Sumter, Talladega, Tallapoosa, Tuscaloosa and Wilcox shall each elect two representatives. The counties of Dallas and Mobile shall each elect three representatives. The County of Montgomery shall elect four representatives and the county of Jefferson shall elect six representatives.

We further recommend that Section 7 be amended as follows:

Section 7. Until the General Assembly shall divide the State into Senatorial Districts, the Senatorial Districts shall be: First District, Lauderdale and Limestone; Second, Lawrence and Morgan; Third, Winston, Blount and Cullman; Fourth, Madison; Fifth, Jackson and Marshall; Sixth, Etowah and St. Clair; Seventh, Calhoun and Cleburne; Eighth, Talladega and Clay; Ninth, Randolph and Chambers; Tenth, Talladega and Coosa; Eleventh, Tuscaloosa; Twelfth, Lamar, Fayette and Walker; Thirteenth, Jefferson; Fourteenth, Pickens and Sumter; Fifteenth, Chilton, Shelby and Elmore; Sixteenth, Autauga and Lowndes; Seventeenth, Butler, Conecuh and Covington; Eighteenth, Perry and Bibb; Nineteenth, Choctaw, Clarke and Washington; Twentieth, Marengo; Twenty-first, Monroe, Escambia and Baldwin; Twenty-second, Wilcox; Twenty-third, Henry, Dale and Geneva; Twenty-fourth, Barbour; Twenty-fifth, Pike, Coffee and Crenshaw; Twenty-sixth, Macon and Bullock; Twenty-seventh, Lee and Russell; Twenty-eighth, Montgomery; Twenty-ninth, DeKalb and Chero-

kee; Thirtieth, Dallas; Thirty-first, Colbert, Franklin and Marion; Thirty-second, Greene and Hale; Thirty-third, Mobile.

Respectfully submitted,
J. W. Grayson,
C. H. Greer.

Minority report of the Committee on Representation.

The minority of the Committee on Representation dissent from the recommendations of the majority, and recommend that the number of representatives remain one hundred and the Senators thirty-three.

That the apportionment of Senators and Representatives remain as they are until the next session of the General Assembly, which may reapportion them, and after the decennial census 1910 shall reapportion them.

J. W. Grayson,
C. H. Greer.

MR. PITTS—I move that the report of the Committee lie on the table and be printed.

THE PRESIDENT — Does the gentleman desire to incorporate in his motion that it be set specially for consideration?

MR. PITTS—No, sir.

A vote being taken the motion was carried.

MR. HEFLIN (Randolph)—I call for the regular order.

MR. WATTS—I ask unanimous leave to introduce a short resolution and I propose to move to suspend the rules and have the resolution put on its immediate passage.

THE PRESIDENT — Does the gentleman from Randolph withdraw his motion for the introduction of this resolution.

The withdrawal was made and the resolution was read as follows:

Resolution No. 196, by Mr. Watts:

Be it resolved, That the privileges of the floor of this Convention are hereby extended to Alabama's distinguished son, Hon. Hiliary A. Herbert, Ex-Secretary of the Navy.

Be it further resolved, That on Friday the 28th inst, this Convention recess from 12:30 to 3 p. m. instead of from 1 to 3 p. m., and that the Convention remain in session until 6 p. m., in order that the Alabama Bar Association may have the use of this hall for the purpose of hearing the address of the Hon. Hiliary A. Herbert to said Association.

A vote was taken on the motion to suspend but the result was not announced by the President—

MR. REESE—I demand a division of the question involved.

MR. HEFLIN (Randolph)—Too late the vote has been taken.

THE PRESIDENT—The Chair has not yet announced the vote on the motion to suspend. The motion to suspend is carried. The question now is on the adoption of the resolution.

MR. REESE—I now move a division of the question.

MR. WATTS—It is too late.

THE PRESIDENT—In the opinion of the Chair, it is not too late. The ground upon which the Chair refused to entertain the motion for a division the gentleman made awhile ago was that the gentleman could not make his motion while the House was passing on the motion to suspend the rules. In the opinion of the Chair it is now in order for the gentleman to demand a division of the question.

MR. DUKE—I rise to a point of order. The gentleman from Dallas is making the demand for a division out of his seat.

THE PRESIDENT—The point of order is well taken.

MR. SAMFORD (Pike) — Well, I will make the demand from my seat.

The question will be divided. Under the rules any member of the Convention has a right to demand a division of a question where the sense of it will admit of the division. The Secretary will read the first proposition.

The first part of the resolution extending the privileges of the floor to Mr. Herbert was read and unanimously passed.

The remaining part of the resolution was then read.

MR. WATTS—The object of that resolution is to permit the members of the Alabama Bar Association who are members of this house to hear the address of Hon. Hilary A. Herbert. The request is only for the adjournment of the Convention for half an hour earlier than it would ordinarily recess and it is for the purpose also of obtaining this hall so that the crowd that is expected to be here to hear the address can be accommodated.

MR. OATES—If it is in order, I move to amend the motion of the delegate from Montgomery by striking out 12:30 and inserting 12. I belong to the Alabama Bar Association and I have never attended a meeting of that body where the invited guest made the first address. Usually the President makes his address first and then the invited guest. Members will not have time to

hear both addresses and go home and get dinner between 12:30 and 3 o'clock.

MR. SAMFORD (Pike)—I do not like to appear to be interposing objections to listening to an address by a distinguished citizen of Alabama or of the nation, but I submit to this Convention that it does seem to me that we have taken up as much or perhaps more time than the people generally think we ought to take in the work that is set before us and that we should not adjourn and give way from time to time on every such occasion as this. I submit that it is not our time but the people's time that we are wasting. I simply desire to make this explanation of the vote that I shall cast on this occasion.

MR. DUKE—I move to further amend the resolution by providing that the Convention remain in session until 6 o'clock tomorrow. That would take the time of the members of the Convention, and not of the people, and give it to the Bar Association.

MR. PETTUS—I move the previous question on the resolution pending and on the amendment.

MR. SOLLIE—I am not unfriendly to the resolution but the original resolution as introduced did not change the time for the evening session, and don't this require a suspension of the rules?

THE PRESIDENT — The rules of the Convention cover both morning and afternoon sessions and when the rules are suspended on a resolution it is in order to dispose of the resolution in whatever manner the Convention sees fit. The point of order is overruled.

A vote being taken the previous question was ordered.

MR. OATES—I will accept the amendment of the gentleman from Chambers.

THE PRESIDENT—That can only be done by unanimous consent.

A vote being taken the amendment of the delegate from Chambers (Mr. Duke) was adopted.

A further vote being taken the amendment of the delegate from Montgomery (Mr. Oates) was adopted.

A further vote being taken the resolution as amended was adopted.

MR. LOMAX—I ask leave to introduce a short resolution for reference to a Committee.

Resolution 197, by Mr. Lomax:

Resolved, that the sum of seven and 50-100 dollars be and the same is hereby appropriated to pay for stenographic work for the Committee on Preamble and Declaration of Rights.

Referred to Committee on Schedule, Printing and Incidental Expenses.

MR. FERGUSON—I ask unanimous consent to introduce a short resolution.

The resolution was read as follows:

Resolution No. 198, by Mr. Ferguson:

A Greeting from the people of Alabama to the People of Cuba:

Be it resolved, by the people of Alabama, in Convention assembled, That we extend our congratulations to the people of Cuba upon the termination of their woes borne so greviously for so many generations, and we welcome them to the great family of self-governing nations and hope that some day Cuba, untrammeled, and of her own free will, may become our younger sister in the mighty Union of States.

Be it further resolved, That the Department of State at Washington be and is hereby requested to convey through the proper official channels this testimonial of our good will toward the people of Cuba, that the same may be laid before the Constitutional Convention of the Island of Cuba.

Referred to Committee on Rules.

THE PRESIDENT—I will refer to the report of the Committee on Executive Department.

MR. FERGUSON—I would ask its reference to the Committee on Rules.

The reference was made.

The further call of the standing committees for reports proceeded and the Committee on Amending the Constitution and Miscellaneous Provisions handed in its report, which was read as follows:

An ordinance to prescribe the mode in which the Constitution may be amended.

Be it ordained by the people of Alabama in Convention assembled, that Article XVII of the Constitution be stricken out, and the following Article inserted in lieu thereof:

ARTICLE XVII.

Mode of Amending the Constitution:

1. Amendments may be proposed to this Constitution by the General Assembly in the manner following: The proposed amendment shall be read in the House in which they originate on three several days, and if upon the third reading, three-fifth of all the members elected to that House shall vote in favor thereof the proposed amendments shall be sent to the other House, in which they shall likewise be read on three several days, and if upon the third reading three-fifths of all the members elected to that House shall vote in favor of the proposed amendments, the General Assembly shall order an election by the qualified electors of the State upon such proposed amendments, to be held either at the general election next succeeding the session of the General Assembly at which the amendments are proposed or upon another day appointed by the General Assembly not less than three months after adjournment of the session of the General Assembly, at which the amendments are proposed. Notice of such election together with the proposed amendments shall be given by proclamation of the Governor which shall be published in every county is such manner as the General Assembly shall direct, for at least eight weeks successively next preceding the day appointed for such election. On the day so appointed an election shall be held for the vote of the qualified electors of the State on the proposed amendments. If such election be held on the day of the general election the officers of the general election shall open a poll for the vote of the qualified electors on the proposed amendments; if it be held on a day other than that of a general election, officers for such election shall be appointed and the election shall be held in all things in accordance with the law governing general elections. In all elections upon such proposed amendments the votes cast thereat shall be canvassed, tabulated, and returns thereof made to the Secretary of State, and counted, in the same manner as is done in elections for Representatives in the General Assembly, and if it shall thereupon appear that a majority of the qualified electors who voted at such election upon the proposed amendments, in favor of the same, such amendments shall be valid to all intents and purposes, as parts of this Constitution. The result of such election shall be made known by proclamation of the Governor.

2.—Upon the ballots to be used at all elections provided in Section 1 of this Article the substance or subject matter of each proposed amendment shall be printed so that the nature thereof shall be clearly indicated, following each proposed amendment on the ballot shall be printed the word "Yes" and immediately following that shall be printed the word "No". The choice of the elector shall be indicated by a cross mark before the answer he desires.

3.—No Convention shall hereafter be held for the purpose of altering or amending the Constitution of this State unless after the General Assembly by a vote of a majority of all the members elected to each House has passed an act or resolution calling a Convention for such purpose, the question of Convention or No Convention shall first be submitted a vote of all

the qualified electors of the State, and approved by a majority of those voting at such election. No act or resolution of the General Assembly calling a Convention for the purpose of altering or amending the Constitution of this State shall be repealed, except upon the vote of a majority of all the members elected to each House at the same session at which such act or resolution was passed.

4.—All votes of the General Assembly upon proposed amendments to this Constitution, and upon bills or resolutions calling a Convention for the purpose of altering or amending the Constitution of this State, shall be taken by yeas and nays and entered on the Journals. No act or resolution of the General Assembly passed in accordance with the provisions of this article proposing amendments to this Constitution or calling a Convention for the purpose of altering or amending the Constitution of this State, shall be submitted for the approval of the Governor, but shall be valid without his approval.

Report of the Committee on Amending the Constitution and Miscellaneous Provisions.

MR. PRESIDENT—The Committee on Amending the Constitution and Miscellaneous Provisions beg leave to report herewith an ordinance to take the place of Article XVI of the present Constitution.

The only matters in which the report of the Committee differ from the Article in the present Constitution are the following:

1. Section 2 of the Article in the present Constitution is made Section 3 in the report.

2. A new Section, number 2, in the report has been added forbidding the increase or diminution of the compensation of any public officer during the term for which he shall have been elected.

Respectfully submitted,
J. M. Foster, Chairman.

An ordinance to amend Article XVI of the Constitution.

Be it ordained by the people of Alabama, in Convention assembled, That Article XVI of the Constitution be stricken out and the following Article inserted in lieu thereof:

ARTICLE XVI.

Miscellaneous Provisions.

1. No person holding an office of profit under the United States except postmasters, whose annual salaries do not exceed two hundred dollars, shall, during his continuance in such office, hold any office of profit under this State; nor shall any person hold two offices of profit at one and the same time under this State except Justices of the Peace, Constables, Notaries Public and Commissioners of Deeds.

2. The salary, fees, or compensation of any officer holding any civil office of profit under this State or any county or municipality thereof, shall not be increased or diminished during the term for which he shall have been elected or appointed.

3. It is made the duty of the General Assembly to enact all laws necessary to give effect to the provisions of this Constitution.

Report of the Committee on Amending the Constitution and Miscellaneous Provisions:

Mr. President,

The Committee on Amending the Constitution and Miscellaneous Provisions beg leave to report herewith an ordinance to take the place of Article XVII of the present Constitution.

The committee does not report specially upon all ordinances referred to it, but has embodied the ideas of some of them in this report. All ordinances referred to your committee are herewith respectfully returned.

The material particulars in which this report differs from the article in the present Constitution are as follows:

Section 1 has been rewritten so as to require the assent of three-fifths of all the members elected to each House of the General Assembly to propose amendments before the same can be submitted to the people. The committee was aware that doubt existed as to whether the language of this article in the Constitution required two-thirds of all the members elected to each House, or only two-thirds of a quorum of each House, and that it was susceptible of the latter construction. The committee deemed it best that more than a majority of all the members elected to each House should approve the amendments before they should be submitted, and thought it advisable to express the requirements in language that cannot be misunderstood.

The General Assembly has been given the option of ordering that the proposed amendments be voted on at a general election, or at a special election called for that purpose as it might think best.

A new section numbered two in the report has been added. This section provides that on the ballot to be used at election on proposed amendments the subject matter of each amendment shall be printed in language which shall clearly indicate the nature of the amendment.

Section 2 of the article in the present Constitution is numbered three in the report, and has been changed so as to prevent the call of a Constitutional Convention unless such call shall first

receive the affirmative vote of a majority of all the members elected to each House of the General Assembly. This section has also been amended so as to forbid the repeal of an act calling a Constitutional Convention except at the same session of the General Assembly at which the act was passed.

A new section, numbered 4 in the report, has been added requiring an aye and nay vote by the members of the General Assembly on all propositions to amend the Constitution and to call a Constitutional Convention. This section also makes it plain that the approval of the Governor is not necessary to give validity to any act or resolution of the General Assembly proposing amendments to the Constitution or calling a Constitutional Convention.

Respectfully submitted,
J. M. Foster, Chairman.

MR. SOLLIE—As a member of this Committee I wish to say that I was not in accord with all of the sections as reported by the Committee and reserve the right to oppose them when the matter comes up. I give this notice now because the facts which I deem not necessary to bring now before the Convention, part of which was my absence from the Committee during a part of its deliberations. I did not, intended, however, to bring in a minority report.

MR. BURNS—As a quasi member of that Committee, I beg leave to state I never heard of the report before and I ask the privilege of objecting to some of its provisions.

MR. FOSTER — It has not been my fault that gentlemen have not heard of the provisions. As the President knows, I have had notices of meetings of the Committee called out before the Convention. We have always had a quorum, and if members choose to absent themselves I cannot go around town and hunt them up. I do not know whether it is necessary, but if it is, I move that the report be printed and take its place on the calendar.

The motion was carried.

MR. HEFLIN (Chambers)—A good many members of committees when reports are made consume time in giving notice that they will object to certain of the provisions of the report. I want to inquire if members of the Committee and other delegates have not the right to amend a section without giving notice that they differ with the report?

THE PRESIDENT—It seems to the Chair there is no power to compel members of the committee to support a report unless they see fit. It is usually supposed that members of a committee, unless they submit minority reports are favorable to the majority report. That supposition, sometimes, however, proves to be violent.

The call of the regular order was resumed and the Committee on Schedule and Printing offered the following report:

Mr. President:

The Committee on Schedule, Printing and Incidental Expenses have instructed me to make the following partial report, viz:

The committee have audited the accounts hereto attached and find that the State of Alabama is indebted to the Brown Printing Company of Montgomery, Alabama, in the sum of two hundred and fifty-five and twenty-five one hundredths dollars. We find that said State is indebted to Marshall & Bruce of Nashville, Tennessee, the sum of twelve dollars.

We also find that said State is indebted to Ed C. Fowler Company, Montgomery, Alabama, in the sum of twenty-four and 75-100 dollars.

All of the above amounts are for articles furnished the State of Alabama for the use of the Constitutional Convention and all of the above amounts are itemized as shown by bills hereto attached. Total amount three hundred and two dollars.

And we recommend the payment of the same, all of which is respectfully submitted. John T. Heflin,

Chairman of Committee on Schedule, Printing and Incidental Expenses.

MR. HEFLIN (Randolph)—I move that the report be printed and that it be adopted and that the President of the Convention be authorized to draw his warrant on the State Treasury for the benefit of the parties named.

THE PRESIDENT—It seems to the Chair that an ordinance requiring the payment of money, it would be more regular to let it lie on the table and be printed.

A motion to print was made and carried.

MR. HOWELL—I ask permission to introduce a resolution that is of some importance to this Convention and I think now is the proper time to do it.

The resolution, No. 199, was read as follows:

Resolved, that whatever clerical assistance may be necessary to be employed by the Enrolling and the Engrossing Clerk of the Convention be paid for at the rate of 15 cents per hundred words for such assistant clerical work.

MR. HOWELL—I move the adoption of that resolution and I ask permission to explain my reasons.

At the organization of this Convention and in the election of officers there was an Enrolling and Engrossing Clerk elected who went upon the pay roll as $5 per day. I would then have protested against the election of that officer until there was work to do, but was deterred from it.

Nearly forty days of the Convention have come and gone and not a single article has been engrossed and yet that officer has been on the pay roll at $5 a day. I do not know the distinguished lady and I have no feeling in making the motion, but it seems to me we are paying out money for work not done. Now, a resolution is offered here this morning to authorize her to employ additional clerical force, to which I have no objection if it is needed, but, under that resolution, she would be authorized to employ at her discretion any number of clerks, and they would go on the pay-roll at $4 a day whether there is any work to do or not. This resolution of mine proposes if there is any such clerical work to do to pay for it at the rate of 15 cents a hundred. That is the whole of the resolution. I was deterred from protesting against this officer being elected at the time she was from the fact that somebody would say that I was niggardly, or that I did it for buncombe. I now move to suspend the rules, and that this resolution be placed on its immediate passage.

A vote being taken, the rules were suspended.

MR. CARMICHAEL (Colbert) — I move to amend that resolution by providing that the engrossing and enrolling clerk may employ such assistants as may be necessary, and these assistants shall receive 15 cents per hundred words for the work they do.

MR. HOWELL—I accept that amendment.

MR. ROBINSON—Has the engrossing and enrolling clerk been receiving compensation from the commencement of the convention?

MR. HOWELL—That is the rule of the Legislature.

MR. ROBINSON—But has she received compensation since the Convention organized?

MR. HOWELL—That is the rule.

MR. ROBINSON—But has she actually received the compensation?

MR. HOWELL—I don't know that she has. I go upon the general rule.

Several members answered in the affirmative.

MR. ROBINSON—Did she do any work until the adoption of the executive report?

MR. HOWELL—I don't think she did.

MR. LONG (Walker)—Was not that the fault of the members of the Convention that she has not been at work all the time?

(Laughter).

MR. COBB—I want to say that it is a dangerous precedent to allow this engrossing and enrolling clerk to select such assistants as she desires. If she needs assistance, she should have it, but I don't think it should be in this form.

MR. CARMICHAEL (Colbert) — It has been the uniform custom and practice of the House of Representatives and Senate to allow this officer to select whatever assistants are necessary when the assistance is needed. It would be impossible for the Convention to know whether the engrossing clerk needs assistants. Since she has been elected, we should defer that matter to her.

MR. PROCTOR—In answer to the question of whether the engrossing and enrolling clerk has been receiving pay, I will say she has, and she has been here ready to perform any service that might be required of her, and she has been here at considerable expense. If the Convention don't see proper to give her any work, that is the fault of the Convention. As to leaving this matter to the Convention, this work may pile up on her and be dumped over to her after the Convention is closed. If we fix it so that she cannot employ assistants without referring it to the Convention, she would have to wait until the next morning before she could make arrangements to procure such force as is needed.

Now, as to paying 15 cents a hundred words for this work: You cannot get a man or a lady, either, to come here and work at 15 cents a hundred, getting the work as the Convention is going to give it to the engrossing clerk. She might be able to employ some one steadily, giving all the work they could do, at 15 cents per hundred, but she could not get them for that price as the work will be delivered. To have the help constantly at call, you will have to pay more than the Probate Judges pay for their enrolling. If this Convention is delayed waiting for work to be done in that department for one day, more money will be lost to the State than the whole cost of the department.

MR. BULGER—Is it not your opinion that this engrossing clerk can engross any Article that we have had before we get another?

MR. PROCTOR—That is true as we have been doing in the past, but how do we know that two or three Articles won't be passed in one day? The engrossing clerk could have kept up with all we have done and she may be able to do it in the future,

but I think it would be wise for this Convention to give her this authority, and I, therefore, move to lay on the table the resolution of the gentleman from Colbert.

MR. WHITE—I submit this is a matter of some importance.

THE PRESIDENT—A motion to table is not debatable.

A vote being taken, the motion to table was lost.

MR. HOWZE—I am opposed to this resolution because it puts it in the power of this clerk to appoint officers to the Convention without knowledge of the Convention and without knowing whether the help is needed. I don't think we should go into this extravagant way of appointing these assistants. If assistants are needed they ought to be employed. There is no engrossment required until an article is passed and from our experience I would judge that one clerk could enroll any Article before any other article gets to them. There has only been only article passed and from present prospects the next one won't pass for a month and I think one clerk will have an opportunity of engrossing every bill that will be sent to her. I think this is a matter that ought to be referred to a Committee before it is passed, and I therefore move that this be referred to the Rules Committee to determine whether or not this additional help should be granted.

MR. HOWELL—I will vote for that but will the gentleman allow me to offer an amendment before it goes to the Committee. I would suggest that if it becomes necessary for a clerk to be employed that the enrolling clerk can employ such with the consent and approval of the President.

MR. O'NEAL—I move the previous question.

A vote being taken the main question was ordered and a further vote being taken the motion to refer was carried.

By unanimous consent resolution 195 was withdrawn from the Committee on Printing and referred to the Committee on Rules.

MR. REESE—I ask unanimous consent to send up a short resolution which I am satisfied will save this Convention $5,000.

There was objection.

THE PRESIDENT — The President has a communication from the Sheriffs, Clerks and Registers Association of Alabama.

MR. PETTUS—I move that it be read.

The communication was read as follows:

At a special meeting of the Sheriffs, Clerks and Registers Association of Alabama, held in the city of Montgomery, Alabama, on the 26th of June, 1901, the following resolutions were unanimously adopted:

Whereas, the main purpose for which the present Constitutional Convention now assembled at the Capitol was called, as understood by the people (such understanding having been obtained from the Democratic platform) was to disfranchise the negro and at the same time not to disfranchise any white voter, and

Whereas, the cause or justification for discrimination against Sheriffs in Alabama, which discrimination denies them the privilege of succeeding themselves in office has ceased to exist and

Whereas, the present Constitutional Convention proposes to further discriminate against the Sheriffs by lodging with the Chief Executive of the State the power to suspend and remove them from office pending proceedings of impeachment before the Supreme Court; and

Whereas, certain material changes are in contemplation by the Constitutional Convention that was not discussed before the people of Alabama, nor submitted for their consideration before the calling of the Constitutional Convention.

Therefore, be it resolved by the Sheriffs, Clerks and Registers Association of the State of Alabama,

First—That we respectfully appeal to the present Constitutional Convention to redeem every pledge made to the people of Alabama as embodied in the Democratic platform.

Second—Be it further resolved, That we favor the elimination from the Constitution, that provision which prohibits Sheriffs from succeeding themselves in office.

Third—That we regard the proposition to lodge with the Chief Executive of the State of Alabama the extraordinary power to suspend or remove from office, the Chief Executive officer of the counties in Alabama, pending impeachment proceedings, as frought with great danger, and a direct thrust at local self-government, and earnestly protest against it.

Fourth—That it is the sense of this Association that any material change in the Judicial Department of this State will be a radical departure from the real purpose for which the Convention was called, and will greatly imperil the ratification of the Constitution when submitted to the people for their approval.

We therefore respectfully and earnestly petition the Constitutional Convention.

(a) Not to abolish the Chancery or City Courts of the State.

(b) Not to reduce the present minimum area limits of the counties of the State.

(c) Not to incorporate in the Constitution a provision making any county officer ineligible to succeed himself.

Be it further resolved, that these resolutions be spread upon the minutes of this association, and that the President be and he is hereby instructed

to present a copy of these resolutions to the President of the Constitutional Convention with the request that he present the same to the Convention.

A true copy from the minutes of the Sheriffs, Clerks and Registers Association of Alabama.

W. R. Waller, President,
H. H. Matthews, Secretary.

Is there any such body known to the laws of Alabama?

THE PRESIDENT—The Chair is unable to inform the gentleman, the communication is so signed.

MR. PETTUS—I move that that communication be referred to the Committee on Executive Department.

MR. REESE—I move to amend that by referring it to the Committee on Preamble and Bill of Rights.

MR. PITTS—I desire to offer a substitute for both those motions. The substitute was read as follows: Resolved, that the management of all public affairs be immediately turned over to the office holders.

MR. HEFLIN (Chambers)—I move to suspend the rules and lay that resolution on the table.

MR. PETTUS—I make the point of order that the resolution is out of order.

THE PRESIDENT—The resolution is out of order.

A vote being taken the amendment was lost and a further vote being taken the original motion was carried and the reference made.

THE PRESIDENT—The next order of business will be the consideration of the Committee on Taxation.

MR. CORNWALL—I ask unanimous consent to introduce a short resolution.

The President—The special order is the report of the Committee on Taxation.

MR. WHITESIDE—I rise to a question of personal privilege. On yesterday when the Convention was about to take a vote on the motion of the delegate from Walker to lay the amendment to Article I of the report of the Committee on Taxation on the table I called for a division of this question. The official report of the proecedings of the Convention attributed that call to Mr. Parker of Elmore. This does Mr. Parker an injustice as he desired to lay both amendments on the table. I only desired to lay the amendment to the amendment on the table, because I conceived that to be a matter of legislation. I wanted to vote for the

first amendment. The amendment of the gentleman from Pike, because I conceived that that came strictly within the purview of a Constitutional provision. I desire further to complain and protest against the ruling of the President pro tem. on that call for a division in the face of Rule 37 which reads as follows:

Rule 37. Any delegate may call for a division of the question when the sense will admit of it.

The President pro tem. held that it was in the discretion of the gentleman from Walker as to whether or not he would permit a division of the question.

MR. GRAHAM (Talladega)—I rise to a point of order. The gentleman from Calhoun cannot call upon the Chair to correct a ruling of the President pro tem. of yesterday. His remedy was an appeal from the decision of the President pro tem. at that time.

MR. WHITESIDE—I am not asking for it to be corrected. I simply desire to protest against it.

MR. GRAHAM—I rise to the further point of order that the time was then to protest, not now.

THE PRESIDENT—It seems to the chair the point of order is well taken so far as it relates to the protest made by the gentleman.

MR. WHITESIDE—It is in the discretion, I conceive, of any member to make his motion as broad and covering as many propositions as he desires, but it is not within the discretion of any member of this Convention to prevent any member voting his sentiments on any proposition before the Convention.

THE PRESIDENT—The question before the Convention is the amendment proposed by the gentleman from Jefferson to Section 1 of the Article reported by the Committee on Taxation.

MR. WHITE (Jefferson)—At the close of the session yesterday, in answer to a statement made by me to the effect that the farmer paid taxes on all his property, the same as any other citizen of Alabama, my friend from Talladega read from the statute the exemption of some few articles from taxation. They apply as well to any one else as to the farmer. That, I think, is an answer to that proposition.

Now, Mr. President, what is this taxation? We limit the ad valorem tax to seven and one-helf mills on the dollar. This tax is twenty-five mills on the dollar. Fifty cents on every ton of fertilizer means fifty cents imposed on every twenty dollars' worth of property, and that, taken as an ad valorem tax, means twenty-five mills on the dollar. That is in addition to the tax the farmer has already paid, and this is an unequal and an unjust burden imposed upon him. This twenty-five mills on the dollar addi-

tional taxation, is in addition to the fact that this same property has paid its proportion of taxes during the year as merchandise. Now, I say, Mr. President, and gentlemen of the Convention, that this is indefensible. In fact, our opponents do not undertake to defend it, but they tell us that the farmer does not pay it, and, therefore, it ought to still continue.

I say it is wrong, Mr. President and gentlemen of the Convention, without reference to who pays it. I say it is wrong to impose it upon the manufacturer, and it is doubly wrong to impose it upon the farmer, because he is less able to pay it than others. Does he pay it? We are told by gentlemen who claim to know something about it, that he does not. If he does not pay it, then every National Democratic platform, since I can recollect, has been wrong, because in every one of them they declare that the consumer pays the tariff tax laid upon goods. Certainly in these long years, if that were a fallacy or mistake, it would have been corrected. I know that the Republican doctrine asserts the contrary, but which is right? Which is correct? The Republicans claim that the manufacturer pays it. The Democrats claim that the consumer pays it. I am willing to stand with the Democratic platform for the last half a century.

Now, sir, to illustrate, how much tax is this? Why, it is ninety-thousand dollars a year. How much will that amount to in ten years? Nearly a million of dollars in round numbers. Does any thoughtful man believe, or say, that the manufacturers of fertilizers are giving to the people of Alabama a million of dollars every decade that rolls around? Why, the mere statement of that proposition answers it. We know they do not pay it. As my friend has suggested, it is increasing every year. In 1896, the revenue derived from this tax amounted to fifty thousand dollars. In 1900 it amounted to ninety thousand dollars. In other words, it is increasing now at the rate of fifty thousand dollars in every five years, and, as our lands grow poorer, and as our farmers become more progressive and more intensive, the consumption of these fertilizers will increase, and the proportion which now exists will be destroyed. Ere long they will be paying probably twenty or twenty-five per cent of the revenues derived by the State from all sources. Today this tax amounts to nearly fourteen per cent of the ad valorem taxes of the State, and tell me then that it is a bagatelle? Tell me then, that the farmer who has to pay it does not feel the burden? I say, Mr. President, and gentlemen of the Convention, it is indefensible; it is wrong, and it ought not longer to exist.

Why impose upon this one class, a class that produces more wealth, gives employment to more people, maintains more homes, supplies the schools with more children and the churches with more membership, than all other classes in Alabama, why single them out to bear the weight of his unjust burden? They are al-

ready staggering; they are already reeling under the imposition of taxes, because they are less prosperous than almost any other class of people in Alabama. Why make them the burden bearers of the State? I appeal to you and ask you if it is not wrong?

Does he pay it? I have it from a gentleman whose veracity cannot be questioned, here or anywhere else, that he buys fertilizers without the tag at fifty cents a ton less than with it. The very same fertilizer. Clip the tag, and the price is cut fifty cents on the ton, and I have no doubt that any man who has the cash in his pocket in the spring of the year, can walk up and buy his fertilizers for cash, waiving the guarantee represented by the tag, he can buy it for just fifty cents a ton less than he pays for it with the tag.

MR. FOSTER—Will the gentleman allow an interruption?

MR. WHITE—Yes.

MR. FOSTER—Your amendment contemplates, does it not, that commodities may be inspected?

MR. WHITE—Oh, yes, but the cost of the inspection only shall be charged.

MR. FOSTER—It is to be charged against the commodities—the seller of the commodities?

MR. WHITE—Yes, sir.

MR. FOSTER—Do you consider that the salary of the inspecting officer is a part of the cost?

MR. WHITE—Well, I don't know what the legislature might provide along that line.

MR. FOSTER—Isn't this whole thing a matter for the legislature?

MR. WHITE—Why, of course, it is for the legislature. But this is a limitation upon taxation, and it provides that the legislature shall not levy more than that. That is all. Some gentlemen contend that this is legislation.

MR. FOSTER—May I ask another question?

MR. WHITE—Yes.

MR. FOSTER—Does your amendment then prevent the legislature from imposing any license tax that they see fit?

MR. WHITE—No.

MR. FOSTER—Isn't the whole matter in the discretion of the legislature under your amendment, as to what constitutes the cost of the inspection?

MR. WHITE—The cost of the analysis, and of inspection is the limit.

MR. FOSTER—But it is within the discretion of the legislature as to what constitutes the cost?

MR. WHITE—Of course they will have to determine that. but they cannot go beyond the reasonable cost of inspection.

MR. SOLLIE—The actual cost.

MR. WHITE—And I understand that is now some five, six, seven or eight cents a ton.

They say that this is legislation. What? A limitation upon taxation a legislative act? Why the unlimited power of taxation, Mr. President and delegates of the Convention carries with it the power of confiscation. Any man who has ever written or spoken upon this subject, will tell you that the power of taxation unlimited carried with it the power of confiscation and destruction. We limit, in this very section of this article, the power of the legislature to levy an ad valorem tax. We only ask you to do in this, exactly what you have done in the old Constitution, and what the committee recommends you shall do in this. The argument so often made that we are entering into legislative fields, is one of those convenient arguments that can be made when a gentleman is against a measure, and can be used by him the other way, when he is in favor of a measure. This is an argument, when made, which should always be considered well, and to which your earnest thought should be applied.

But, Mr. President, I do not think that my amendment was quite as wide and comprehensive as it should have been, and therefore I send up a substitute.

MR. GRAHAM (Talladega)—Will the gentleman permit a question before he goes on?

MR. GRAHAM—I desire to refer him to section 38 of Article IV of the present Constitution, which states:

"No State office shall be continued or created for the inspection or measuring of any merchandise, manufacture or commodity; but any county or municipality may appoint such officers, when authorized by law," and ask if his resolution or amendment of yesterday does not by implication create, or give the Legislature the right to create offices of this kind?

MR. WHITE—Well, Mr. President, that is the section commonly known as the "coal oil" section.

MR. GRAHAM (Talladega)—I understand that the gentleman had some indirect connection with the coal oil business a year or two ago.

MR. WHITE—Yes, I burned some of it, and I watched the suffering public burn more. The Supreme Court of the State declared this coal oil act void, but the gentleman now asks if my substitute does not in effect repeal that provision.

MR. GRAHAM (Talladega)—And open it up again for such offices?

MR. WHITE—Oh, no. My friend, that old argument has played out. We worked that for all it was worth two years ago. (Applause). I did that, and the other members of the "squadron" did the same.

MR. GRAHAM (Talladega)—I am afraid the gentleman is trying to work it again.

MR. WHITE—If I am, it is through my friend over here, who was a part of the command. Will the clerk read the substitute?

The substitute was read as follows:

Substitute for amendment offered by Mr. Cobb to Section 1, Article XI, as reported by Committee on Taxation:

No tax shall be imposed or license required of the manufacturer or producer of any commodity or merchandise for selling or exchanging the same, and no inspection tax or license shall be imposed for the inspection or analyzing of any commodity of merchandise in excess of the reasonable cost of such inspection or analysis. Provided, the tag tax now imposed by law may remain in force until September 30th, 1903, and, provided, further, that the provisions of this section shall not apply to the manufacture of vinous, spiritous or malt liquors.

MR. HARRISON—May I ask you what caption or title you would put to that bill?

MR. WHITE—I will attend to that when I get to the Committee on Harmony and Consistency. I am not now dressing it up. I am giving it to you in such language as you can take it in. Of course, it won't do to draw it too fine at the start. The gentleman from Lee might not take it that strong.

MR. O'NEAL (Lauderdale) — Will the gentleman permit a question?

MR. WHITE—Yes, sir.

MR. O'NEAL (Lauderdale)—I ask simply for information. I did not understand very fully your substitute, but does it contemplate prohibiting the Legislature from imposing any license tax on any article or commodity?

MR. WHITE—Wait a moment, and I will give you the explanation as I understand it. The first clause of that section provides that no tax shall be imposed or license required of the producer or manufacturer, while he is engaged in selling or exchanging his products. That is the idea. My purpose was in that, to prevent a tax or a license being imposed, for instance, upon the cotton mills of Alabama for selling or exchanging their products. I meant by that to prohibit the Legislature from taxing the agriculturists of the State, while they were selling or exchanging the products of the farm. I meant by that that the coal operator should not be taxed while he was selling or exchanging his coal. I meant that Alabama has now become, or is fast becoming, one of the greastest manufacturing States of the Union. She is already great in agriculture, and I mean to encourage her manufacturers and to encourage her agriculturists, and to prevent the Legislature from discouraging her manufacturers and her agriculturists, by imposing a tax upon them that is not imposed upon any other class.

The next provision is that no tax for the inspection or analyzing of any commodity of merchandise shall be imposed in excess of the reasonable cost of the inspection or analysis. By that, it is intended that no commodity or merchandise sold to the people of Alabama should bear an unequal burden or an unjust tax, but if the General Assembly saw fit, it might impose an inspection tax on the article, in order that the people might be protected, and to that extent alone they could fix it.

MR. LONG (Walker)—I will ask the gentleman, to illustrate, suppose the farmers of Alabama, or a majority of the people thereof, including the farmers, wish to retain this 50-cent tax on guano, should they be entitled to that privilege?

MR. WHITE—Well, I suppose so; yes.

MR. LONG (Walker)—Then your proposition to prohibit it is wrong?

MR. WHITE—No, sir. I suppose, Mr. President, that he is acting upon the doctrine that he who wears many stripes will receive great rewards. Some of the Apostles rather rejoiced and glorified in the stripes they received, because they saw in the land beyond joys that they would not have received but for them, and I say if—

The clock struck and the hour of adjournment had arrived.

THE PRESIDENT—The gentleman may conclude his sentence.

MR. WHITE—I say that if the farmers of Alabama are so anxious to bear these burdens, of which my friend from Walker speaks, they can bear them, Mr. President, without going through

the form of taxation; they can send the 50 cents to the Treasurer for every ton of fertilizer they buy.

After announcement of several committee meetings, the Convention adjourned until 3 o'clock p. m.

AFTERNOON SESSION.

The Convention was called to order by the President, and the roll call showed 137 delegates present.

MR. WHITE—I have only a few words to say and then I am done. The evils to be corrected by this amendment have been accentuated by the levy of 2 1-2 per cent ad valorem on the farmer. Now it amounts to just that much. But we are told that this provision is too broad, that it exempts every corporation from a corporation tax. That is not true, as I understand it. It is said that it prevents the legislature from levying any tax in the way of license upon a dealer. That is not correct. It is said that it prevents municipalities from levying a tax upon the occupation of the manufacturer. That is not true. The provision is that no tax shall be collected from the producer or manufacturer for selling or exchanging, that is, for example, you cannot tax him one quarter or one-half of one per cent upon his sales, and that is all it means, that part of it. It don't mean anything else, and if you will listen at the reading of the substitute you will see that this is true. Now, Mr. President, one other word. We claim that the levying of this tax and the appropriation of it to what are called agricultural schools in Alabama is wrong. Wrong, because one class pays the tax and all classes have the right to patronize the schools. But, Mr. President, rather than strike these institutions down, rather than break faith with them, the substitute provides that until September 30th, 1903, the farmers of Alabama will bear this injustice and after that time, the legislature can make provision for the schools in some other way.

MR. ROBINSON (Chambers)—Will the gentleman permit me to ask a question?

MR. WHITE—Certainly.

MR. ROBINSON—I would ask if this would apply to the manufacturers of patent medicines, or those who sell them.

MR. WHITE—You could not collect on his sales but you could collect for his factory and on the merchandise on his store.

MR. ROBINSON—They don't generally have any there.

MR. WHITE—Then it would not apply to manufacturers of vinous, spirituous and malt liquors, because that ought to be regulated by the police power without reference to the volume de-

rived. Now I ask unanimous consent that the substitute be adopted in place of my own amendment—I mean to be accepted for it.

THE PRESIDENT—The gentleman asks unanimous consent to accept the substitute in lieu of the amendment offered by him. Is there objection? The Chair hears none.

MR. O'NEAL—Will the gentleman permit me to ask him a question?

MR. WHITE—Certainly.

MR. O'NEAL—I notice your substitute provides "No tax shall be imposed or license required of the manufacturer of any commodity or merchandise for selling or exchanging the same?

MR. WHITE—Selling or exchanging.

MR. O'NEAL—Does not a gas plant and an ice plant sell their products?

MR. WHITE—Yes, I suppose they do but you cannot levy a tax upon the ice that is sold, in the sense that you cannot levy a per cent tax, but you can levy a tax upon the products, if you keep the ice from melting.

MR. O'NEAL—Don't your substitute prohibit the imposition of a license tax or a privilege tax for selling their products?

MR. WHITE—Yes, for selling or exchanging only.

MR. McMILLAN (Wilcox)—Mr. President and gentlemen of the Convention, it is with a degree of reluctance that I ask you to hear me make a few remarks on the pending proposition. I feel and realize that this debate has been rather prolonged, and that it should draw to a close, but, Mr. President and gentlemen of the Convention, this is a question that I feel vitally interested in, and I feel that every farmer in Alabama is interested in this question, and being actuated only by one principle in life, to be sure you are right and then go ahead, is the reason I appear before you this evening.

Gentlemen, I believe that every member of this Convention is actuated solely by a desire to do that which is just, and that which will subserve the best interests of our people, and most especially that class of people whose limited means preclude the possibility of their appearing before legislative bodies and speaking in their own behalf. The assertion has been made that the farmers have not manifested any interest in legislation along this line. I challenge that assertion, and state that that it is a mistaken idea. I was a member of the last General Assembly of Alabama. I was assigned to a place on the Committee on Agriculture. Other members of that committee, as well as myself, realizing that this burden of a tag tax had weighed heavily upon one

class of our people, and desiring that they should be rid of this burden in a measure, introduced a bill in the Legislature, reducing this tag tax from fifty to thirty-five cents. This bill was referred to the Committee on Agriculture. After looking into all the facts in connection with the matter, we returned the bill to the House, with the unanimous endorsement and approval of every member of that committee. Now, gentlemen, they assert this is a matter that should be delegated to the legislative body. I say it is, too, but I have seen it demonstrated on the door of the Legislature that such a measure cannot be passed, and if you wish me to assign reasons, I will say that not less than twenty members of the Legislature come from counties and sections where they have these Agricultural Schools. Some more come from Auburn. All of these are interested in the maintenance of these schools, and, sir, these members, in connection with the lobby which will come down from each of these schools, will constitute themselves into floor managers on such occasions, and sir, I say that they will invariably prevent such a meritorious bill passing the Legislature of Alabama.

Now I will say in this connection, that that bill did pass the Legislature, after a hard fought struggle, and went to the State, and sir, it never came out of the committee there. It never did. And, past experience leads me to believe that such will be the case in the future.

Now, gentlemen, I believe that this is class legislation, pure and simple. I, too, am in favor of having an analysis of every ton of fertilizer which is used in the State of Alabama, but, Mr. President, myself, as well as numbers of farmers in this State, believe that this is entirely too much sugar for a dime. We are informed that the proceeds accruing from this tag tax to date, for the first half of this year, amount to ninety-seven thousand dollars. Now, gentlemen, shall the farmers of Alabama pay to Auburn the sum of $16,166 for an analysis of fertilizer and maintain a school where not more than one-third of its pupils come from farmers' homes? Shall the farmers of Alabama pay to this school $16,166 for an analysis of fertilizers, when this analysis could be made by one chemist, at an expense not exceeding five to ten thousand dollars? But, gentlemen, I will say, that were this the only reason, I believe that the farmers of Alabama, in their kindness and their generosity, would accede to this, but it goes further, and does what? Why, sir, they maintain nine or ten so-called Agricultural Schools, which, as has been said upon this floor, do not teach agriculture. I say that they maintain these nine or ten Agricultural Schools at a total cost of about thirty thousand dollars. Nor is that all. This leaves a net balance of say about sixty thousand dollars, and where does this go? It is not paid to the fund for the education of the common mass of children whose limited means will always deprive them from crossing the thres-

hold of Auburn, and whose location will prevent them from attend these Agricultural Schools, but sir it is converted into the general fund for all State purposes. Now is that right? Is it right to impose this double tax upon one class of our people?

Mr. President, I too am interested in farming. I both sell and use this commercial fertilizer and I say with an equal degree of fairness and with a like result you might impose a tax of one or two dollars on every ton in Alabama and with the proceeds resulting therefrom establish eighteen or twenty High schools and convert the remainder into the general fund for all State purposes. I feel that this tax should be abolished, if not abolished in toto that at least it should be limited to the amount that would only pay for the analysis of the fertilizers which the farmer uses on his ground.

Mr. Samford (Pike) was recognized.

MR. COLEMAN (Greene)—I would like to understand the situation. The amendment has been accepted, I believe?

THE PRESIDENT—Yes, sir.

MR. COLEMAN (Greene)—And the question is now upon the amendment?

THE PRESIDENT—The adoption of the substitute offered by the gentleman from Jefferson.

MR. COLEMAN (Greene)—I would like for the gentleman to give me permission to make a few remarks on this as he proposes to close.

MR. SAMFORD—Ordinarily out of the extreme respect that I have for my distinguished friend from Greene, I would yield the floor to him, but this discussion has proceeded for quite a while.

MR. COLEMAN—The discussion has been upon the fertilizer tax. That subject is lost sight of entirely by this amendment.

MR. SAMFORD—I will ask the gentleman from Greene if he favors the abolition of the fertilizer tax?

MR. COLEMAN (Greene)—I would ask the gentleman if his permission for me to speak depends on my answer to that question?

MR. SAMFORD—It does not; but I decline to yield the floor.

Mr. President, on Monday I had the honor of introducing an amendment to the report of the Committee on Taxation which I thought would bring tardy justice to a large number of my constituents, and to the farming classes in the State of Alabama. To that amendment with my consent and approval, an amendment was offered by the gentleman from Henry (Mr. Espy) yielding

a small part of the rights that I contended then and contend now are due to that class of our citizenship. Because of my espousal of the cause of the farmers of Alabama, gentlemen who succeeded me on this floor have seen fit by insinuation and inuendo to ascribe motives other than those of a pure nature to my effort by saying and often referring to the fact that I come from a county in which is located a fertilizer factory. I desire to say to them and that I am in no way connected with any fertilizer factory, either as attorney or as stockholder. I desire to say further than no officer of that corporation has ever approached me upon the subject of asking me to make any effort to relieve the farmers of the State of the tax of 50 cents per ton which they pay upon the fertilizer. Upon the contrary, in a conversation with the president of that institution in Pike county, he informs me it is an immaterial matter with the Troy Fertilizer Company because it is charged into the cost of production and is paid by the farmers why buy the products of that factory. Now, members upon this floor when they saw they were hard driven and hard pressed for an argument to meet the charges which had been made against this iniquitous tax made the effort to belittle and cast it aside by saying it is nothing but a legislative function.

I do not pretend to be a great lawyer. I am merely an humble member of that fraternity, but I say to you and to the members of this Convention that among the first principles that were taught me in the law was that a Constitution was the only place where limitations might be put upon taxation or any kind of legislation in a State. Prohibitions and restrictions are the province of State Constitutions in contravention to the theory of the National Constitution. That being a fact, if it is within the province of this Constitution to place a limit upon legislation and upon taxation in part, why is it that members of this Convention hesitate to give protection to a class of people who, on account of their poverty are unable to form combines and lobbying combinations to come to Conventions and Legislative bodies for their own protection.

MR. KIRK—I understood you to say awhile ago that the president of one of these institutions stated to you that the farmer paid the tax?

MR. SAMFORD—I did, most assuredly.

MR. KIRK—Will you please state how that institution evades the statute which enables the farmer to defeat the collection of a debt incurred in the purchase of fertilizers under circumstances of that kind.

MR. SAMFORD—I will do so with a great deal of pleasure a little further along in my remarks.

Now, Mr. President, if we have a right, and I announce it as my firm conviction, that this Convention has not only the power

but the right and it is one of their proper functions to grant this relief, why is it that they hesitate? It is said by some—it has been argued upon this floor and it has been urged in private lobbying among the members of this Convention that the farmers don't pay the tax. It has been urged upon this floor that there is a statute in our Code which prohibits a manufacturer or dealers of any fertilizer from adding this tag tax into the price so as to make the farmer pay it. Now, let us see what that amounts to.

In the first place, it is a doctrine too well established by the Democratic party and by common sense, for anyone to say that the consumer does not pay scintilla and every cent that goes into either the production or the cost of production of any article that he uses. Every one of these factories has at its head the best business men in the community. Every one of these factories is run upon business principles. Every one of them is anxious to make a dividend for their stockholders, so that they may retain their lucrative positions. That being the case, the President's, the per diem of the directors, the salary of the man who fires the engine, of the man who feeds the cotton seed to the hopper, of the man who takes it away from the press, of the man who turns the oil in the tank—all of their salaries are added in just as the cost of the original crude material is added in, and in adding in these amounts, they include this 50-cent tax placed upon it by the State of Alabama, and I can answer the gentleman by relating a little incident. He asks me how it can be evaded. There was a captain of a vessel which plied the waters of the Atlantic. He went across to London or Liverpool and walked into an office, and he was dressed in a very seedy fashion, out of date and out of style. The captain of another vessel came up and said, "Look here, captain, what is the matter that you can't dress up any better?" The first captain replied, "My salary is not sufficient." "Why don't you add it in your expense account?" "I don't think the company will permit that." "Oh, yes, they will," said the second captain. "The next time you make an expense account put in for a suit of clothes." So when the seedy captain went back he added in one suit of clothes, $50, and he took it up to the Auditor of his company. The Auditor said, "This is all right, except that I see you have $50 added for a suit of clothes." "Yes, that is there. I know I ought not to have put it there, and you can strike it out." So the next time he met his friend he said to him, "I added that $50 in and the company wouldn't stand it; they struck it out." "Did you add it in for a suit of clothes?" said his friend. "Yes." "Well, let me fix it for you the next time you make out an account." So, instead of putting down $1,000 for provisions," the account was made out $1,050, and when the captain took it into the Auditor, the Auditor said, "Yes, it is all right; you have not got that suit of clothes in there." "Oh, yes, I have, but you don't see it." That is the way with the manufacturer of fertilizer. This 50-cent tax is in there, but you don't see it.

But, Mr. President, the fact that the tax upon the farmer is small, the fact that it is infinitesimal in some instances, is no reason why an injustice should be done to them. As a matter of fact, in some instances the tax amounts to a large amount with the farmers, especially in my section of the country. I can well understand why it is that the farmers in some sections of the State have practically no interest in this great question, but when you observe the vast amount of commercial fertilizer that is sold in the wire-grass section of this State, where the lands are made to produce readily and to respond to the hand of the farmer when assisted by commercial fertilizers, you can readily understand why it is that the representatives of that section of the State should be here on this Convention floor pleading for their rights and for justice to be done them. Now, let us see what becomes of this tax.

Another argument has been made. Some of the members upon this floor say we should not reduce this tax or take the tax off entirely, for the reason that there will be a disruption of some of the educational institutions of this State. I desire now to say to the members of this convention that I am not an enemy of any of the institutions within the confines of this State. I am proud of its University. I am proud of its agricultural and mechanical colleges. I am proud of its high schools, whether they be supported by a tax from one community or a tax from another community. I am proud of its great common school system, but if they are great institutions, and if they are worthy to stand, they ought to be supported by appropriation from the general treasury, so that every man in this State should bear his equal proportion of the burden.

MR. O'NEAL—Will the gentleman permit me to ask him a question?

MR. SAMFORD (Pike)—Yes, sir.

MR. O'NEAL—Is it not true that while claiming to protect the farmer, the effect of this substitute will be to exempt all organized capital engaged in manufacturing of all privilege or ad valorem tax for selling or exchanging products? Will it not prevent any privilege tax being levied on gas plants, ice plants, cotton mills, oil mills and factories of that kind throughout the State, and won't it revolutionize the whole tax theory and substitute the single tax theory of Henry George, a tax only on real estate?

MR. SAMFORD (Pike)—I would have preferred to answer the gentleman in the course of my remarks, but as he puts the question, I say no, and that argument only comes from the opposition, the enemies to the farmers of this State. It is only an argument to becloud and cover up the real issue in this matter, and the astute questions that are being propounded are for that and no other purpose.

MR. BOONE—May I ask the gentleman a question?

MR. SAMFORD—A gentleman who is representing a school which has always received special privileges from the State of Alabama ought always to be recognized.

MR. BOONE—Don't you, as a lawyer, understand that the Supreme Court of Alabama has distinguished between an ad valorem and a license tax?

MR. SAMFORD—I suppose every lawyer knows that.

MR. BOONE—Well then, sir, I will ask you this, reading from the amendment "that no tax shall be imposed" disjunctively now. "Or license required," if that does not prohibit the imposition of any tax upon the manufacturer.

MR. SAMFORD—Have you a copy of that?

MR. BOONE—Yes, sir.

MR. SAMFORD—Will you give it to me?

MR. BOONE—Now don't that prohibit the imposition of any tax, as the gentleman from Lauderdale suggested, and also prohibit the imposition of any occupation or business tax?

MR. O'NEAL—I asked the question in perfect good faith, if that is not the provision—I don't think you intended it that way, but I think that is the legal meaning that it prohibits any privilege tax on corporations.

MR. SAMFORD—I will answer the gentleman's question by asking him another one: If we bring in an amendment here that will take off the tax on fertilizers, will the gentleman from Lauderdale support it, if it does not have the effect that you object to here?

MR. O'NEAL—I am opposed to taking the tax off any commodity. Let me state why.

MR. COLEMAN (Greene.)—Let me ask a question: If you can satisfy any lawyer here that that resolution will stand the test of the court, I would like to hear the argument. In support of your proposition just now that it did not prohibit an ad valorem or privilege tax. If I understand the meaning of words, that is what I think it does.

MR. O'NEAL—I understand the opposition to this tax on fertilizer is because it is used entirely by the farmers of the State.

MR. SAMFORD—Paid entirely by the farmers of the State.

MR. O'NEAL—Does the gentleman advocate incorporating in the Constitution that taxation which is paid exclusively by any class of our citizens ought not to be levied?

MR. SAMFORD—I do not, but I do advocate the principle that no tax should be levied for the ostensible purpose of being for the benefit of any particular class, and then after having filched it from the people in any such a style as that to apply to the support of other institutions.

MR. O'NEAL—That would be an argument which should be addressed to the legislature. It would be a very strong one and which I would support.

MR. SAMFORD—I will ask the gentleman from Lauderdale and the gentleman from Greene, in reply to their questions, if when the amendment of the gentlemen from Henry was up on yesterday limiting this matter to the fertilizers of this State, if they did not both vote against it?

MR. COLEMAN—You want me to answer?

MR. SAMFORD—Yes, sir.

MR. COLEMAN—On yesterday I voted upon a principle according to my convictions of what the Convention ought to do. This time I oppose the resolution because it is vicious in itself. My position is this, if we are to have a tax or prohibition of a tax, let us have it in the least objectionable form possible, but don't put that in the Constitution.

MR. SAMFORD—They have broken into the thread of my argument by bringing me at once to a direct consideration of the substitute offered by the gentleman from Jefferson which read: No tax shall be imposed, or license required, of the manufacturer or producer of any commodity or merchandise for selling or exchanging the same." The difficulty with the gentlemen who have made the arguments by their questioning has been, that in reading the substitute offered by the gentleman from Jefferson, they failed to go far enough. Now, I do say that this substitute would prohibit the levying of a tax on the sale of gas; it would prohibit the levying of a license or a tax on the sale of ice; it would prohibit the levying of a tax on the sale of cotton goods or cotton cloth; it would prohibit the levying of a license or other tax on the sale of manufactured iron, but it would not prohibit the levying of an ad valorem tax upon every dollar's worth of property that they have and also upon the corporations that do the manufacturing.

MR. WALKER (Madison)—Will the gentleman allow me to ask him a question?

MR. SAMFORD—Certainly.

MR. WALKER—Will it also prohibit the levying of a tax on dirks, bowie knives, pistols, etc.?

MR. SAMFORD—Upon the manufacturers.

MR. WALKER—Yes, and by the dealers?

MR. SAMFORD—Yes, sir, it would do that.

MR. HOWZE—Would it prohibit the levying of a tax on sewing machines, etc.?

MR. SAMFORD—Yes, sir; and I would ask the gentleman, in reply to that, if it would limit it to the fertilizers of the State, would he vote for it?

MR. HOWZE—I would not.

MR. SAMFORD—Then the gentleman has no right to interrupt me, if he does it otherwise than for a good purpose—to the main issue.

MR. HOWZE—I would ask the further question if that would not, in effect, be a repeal of the statute providing for a license tax upon the sale of these identical articles by the manufacturers?

MR. SAMFORD—That it might do, but, Mr. President, the main question that has been before the Convention during the whole time, and the main argument the whole time, and the main arguments that have been advanced by all of the advocates of this measure, have applied to a limitation upon a tax upon fertilizers which were used by the farmers of this State, and if these gentlemen who are so anxious to avoid the iniquities of a resolution which they say will be vicious, then I ask them if they would vote for a motion to take the resolution of the gentleman from Henry from the table.

THE PRESIDENT—The gentleman's time has expired.

MR. SAMFORD—I desire to amend this resolution, Mr. President, by striking out "license."

THE PRESIDENT—The gentleman's time has expired.

MR. SAMFORD—I have a right to offer an amendment by striking out the word "license."

MR. O'NEAL—I rise to a point of order; it is an amendment to an amendment; you cannot amend an amendment.

MR. BROWNE—So long as the sole effect of the amendment offered by the gentleman from Jefferson to the section as reported by the committee, was to prohibit the levying of a tax upon fertilizers, I did not consider that it was my duty, as chairman of the Committee on Taxation, to take part in the discussion. But since the introduction of the substitute by the gentleman from Jefferson and which has been, by unanimous consent, adopted in place of his amendment, I deem it incumbent upon me to say a few words.

A great many objections to the substitute have been shown by questions propounded to the gentleman from Pike. If that substitute is adopted, we have in one moment come to the single tax system of Henry George. No longer can we levy any tax upon manufactures. The manufacturers of any or all kinds of merchandise can establish agencies in every town or city in the State of Alabama and carry on their business without paying any tax whatever. The majority of the cities and towns of Alabama levy a tax upon the gross amount of sales of merchandise. If you destroy that tax, you must at least double the rate of taxation in those cities and towns of Alabama. You must increase the tax upon real estate. You must violate the pledge made by the Democratic State Convention that you would not raise the limit of taxation, because you would in towns and cities be forced to double that taxation. It would, in effect, destroy all license taxes save alone the exception that the substitute allows—a license tax upon liquor. It is a well known fact that a great part of the revenues of the cities and towns of Alabama is derived from license taxes on foreign manufacturers and foreign corporations. Under the provisions of this law, they would establish branch agencies throughout the State of Alabama, do the whole business of the State of Alabama and escape taxation. Now, as to the argument that the farmer pays this fertilizer tax. If it be true that the consumer ultimately pays all taxes, which I deny, then abolish the tax upon your banks, because the poor farmer when he borrows the money from the bank, must pay that tax. Abolish your license tax upon sewing machines, because that tax must ultimately be paid by the poor women of the country who buy the machines. Abolish every other license tax of that kind, because it ultimately comes out of the farmer, and then double the tax upon his produce and his land, and then go home and see if you receive his thanks. When you do abolish these taxes you must of necessity double the tax upon his property.

Mr. President, I, for one, regard the pledges made by the Democratic party in the last convention. There are three pledges in the platform pre-eminent above all others. One of them was that we should take no backward steps in matters of education. Another was that we should not raise the limit of taxation.

MR. SAMFORD (Pike)—Is there any pledge in there that you should continue a tax upon one class only of your citizens for the purpose of running nine little agricultural schools?

MR. BROWNE—I will answer the gentleman's question: There is a pledge that you will take no backward step in the matter of education. There is another that we should decrease the limit of State taxation if possible. If you cut down this tax that you were not pledged to cut down—that was not an issue in the campaign—and thereby destroy these schools and leave it optional with future Legislatures, to re-establish them, you do violate the

pledge that said you would take no backward step in matters of education. If, on the other hand, the substitute of the gentleman from Jefferson is adopted, you take away the enormous fund that is paid into the treasury of the State of Alabama from these license taxes, and you destroy our ability to comply with that pledge to reduce the limit of taxation if possible. If that substitute is adopted, you not only cannot reduce the limit of taxation, but you will have to increase it.

The substitute reads, "No tax shall be imposed or license required of the manufacturer or producer of any commodity or merchandise for selling or exchanging."

MR. COLEMAN—You stop just a little too soon. The first line is "No tax shall be levied or license required," and just below there is says, "No tax for inspection." If no tax can be levied, why put that "no tax for inspection?"

MR. BROWNE—If we are not allowed to collect a tax on a man's business of selling or exchanging manufactures foreign States could do all the business in the State by establishing branch agencies.

MR. SMITH (M. M.)—Are you willing to do a thing indirectly that you are not willing to do directly?

MR. BROWNE—I do not fully understand the import of the gentleman's question. If he will make it plainer, I will answer.

MR. SMITH (M. M.)—Are you willing indirectly to levy a tax on the farmer when you are not willing to come out directly and levy it on him?

MR. BROWNE—In 1882 I had the honor of being a member of the lower House of the Legislature. Mr. Hawkins was also a member. I had the misfortune of being on the wrong side of the question at that time. I fought the levy of this special tax and I recollect the argument made by the farmers in this House, at that time, that we lawyers would not admit that the farmers know what they wanted, that they wanted to tax themselves to establish this agricultural department. They did create it. They fixed the amount of tax on each ton of fertilizer and to this good day I have never heard a farmer complain of it except upon the floor of this Convention. And under that self-imposed tax has grown up in the State of Alabama a most magnificent system of what are termed agricultural schools. Call them local high schools, if you wish, but local high schools containing about 2,250 pupils from 53 counties of the State of Alabama and supported by a self-imposed tax upon fertilizers. And they are now sought to be destroyed by withdrawing from them their only means of support without proposing anything in lieu thereof except the uncertain support to be provided by some future legislature. If these agri-

cultural schools or high schools are to be maintained, and if the legislature will not appropriate anything for the purpose, tell me how they can be supported? Is it not better to let this matter alone for future legislatures? They were established by legislatures, the fund was provided by legislation, and the tax levied by the legislature.

MR. ESPY—You say the farmers desired this tax for the purpose of establishing schools. Did they ask in addition to $25,000 that the schools get, that they should be taxed an additional sum of $50,000 to be paid into the general treasury for which they get no benefit except as the other people also get?

MR. BROWNE—They fixed the rate at fifty cents a ton. And when the fund grew larger than was necessary to maintain the agricultural department in the interests of the agriculturalists of Alabama these schools were established. I have been told that at Sylacauga there are two hundred and seventy-five pupils and over two-thirds of them are the children of farmer parents. So I deny that the farmers reap no benefits from them.

MR. COBB—If there are any in this Convention who seek the floor to take care of their future political aspirations or for any other purpose, except to aid the Convention in the discharge of the important and delicate duties devolving upon us, I am not of that number. Certainly on this occasion I am prompted by the purest motives of duty. I think we have under consideration a most important matter, in the view I shall take of it. And in that view I have not considered and do not propose to consider the merits of this contention. My desire simply is to again, as I have done before, enter a solemn protest against loading down the Constitution of the State of Alabama with matters which do not properly belong to it.

I have recently had my attention called to a criticism appearing in The North American Review which I will ask the clerk to read. It is a criticism upon the Constitutional Convention of South Carolina.

The clerk read the article as follows: "One of the most noticeable features of this Convention and its work is the want of knowledge shown of the proper sphere of a Constitution and of the difference between what should be put in the Constitution and what should be left for the legislature to enact as statutes. No one seems to have pointed out that a Constitution should contain only the great fundamental organic law, leaving the details of law-making to the legislature. The members of this Convention failed to grasp this principle, and, therefore, their work included too much mere law-making. It was even moved by one member that there shall be no session of the legislature this year but the Convention shall do this work in its place. It would have been

but a step further for the Convention to continue on indefinitely in session and carry on the business of the State."

MR. COBB—I submit to members of this Convention if to an extent, this criticism does not apply to this Convention? When we consider the many and various propositions that have been made, propositions to confer upon the people of the State of Alabama power, propositions to permit the legislature to do this and to do that, I am very much inclined to the opinion that we may take that deliverance as a note of warning. I do not propose to repeat that argument which has been ably and repeatedly made upon this floor as to the true nature of a Constitution and the true functions which it should perform. Every intelligent man understands that in accordance with the original theory of our republican institutions the people of every State organized in a State is a political community having all power and whenever they propose to ordain an instrument or make a Constitution, they do it only for the purpose of putting limitations upon their own authority. And I go further, and say that in framing a State Constitution even these negatives should be limited in extent and in number. No restriction should be put upon the legislature of the State except in regard to those few matters in reference to which there is danger that the people themselves may be struck from their feet in times of unusual and great political excitement. That is the reason that we put into our State Constitution, if I may use the expression in this connection, limitations.

Now, what are we here for, why do we assemble here to make, or rather I should say, to amend the Constitution? We are here for certain great purposes. When we have accomplished these purposes, the people expect that we shall call a halt. None of your constituents dreamed that you would come here for the purpose of tearing to pieces the Constitution under which they have lived contentedly for so many years. None of them expected that you would arrogate to yourselves the superior power of telling them what their powers are and how these powers should be exercised. I want to repeat what I said on another occasion, that we are no more than the members of the Legislature, agents of the people, servants of the people, bearing a commission and that commission we are only authorized and required to perform and not beyond that. What is that commission I ask? We were sent here to determine as to the right of citizenship. We were sent here for the purpose of determining and writing in the fundamental law a limit upon the privileges of suffrage. We were sent here to write in the Constitution a stern and strong limitation upon the power of the Legislature to pass local and private laws and the people expected when we had performed these duties that we would adjourn and leave them through their other agents selected by them, amenable to them, who would assemble together in the various Legislatures of the State to determine these other questions which have been thrust upon us from time to time. I had al-

most said ad nauseam. They expected another thing. They expected that in thirty or forty days this work would have been accomplished and that we would have retired to our homes and submitted it to them for their consideration. That time has passed and we have scarcely begun the work and we are being criticised and justly criticised all over the State of Alabama for this unseemly delay. I was of those who stood opposed to any extreme measure looking to the limiting of debate. I was one of those who believed that we had better stay here a longer time than that limited to us by the Legislature, if need be paying our own expenses, in order that we might frame a fundamental law which would last through all the years, and which would secure to Alabama that peace, quiet, contentment and prosperity which we a great people and a great State are entitled to enjoy. But this delay and this trouble has come in every instance from the fact that members have thought it incumbent upon them to write into this fundamental law matters which hitherto had belonged to the Legislature of the State. I say it is time to call a halt. I am aware of the fact that in recent years in the formation of State Constitutions there has been a departure from these old time land marks. I know that is true, but it is well worthy a consideration of this body of intelligent and cultured men whether the time has not come when we should go back a little to first principles and recall the time when republican governments were being organized on this continent that we might learn wisdom from the conduct of our fathers. Mr. President, every limitation upon the power of the Legislature beyond those things to which I have referred is a menace and an obstruction to the development of the resources of the State. They are matters which after awhile, as development takes place year after year, will hamper the people, will check the growth of our institutions and will in that way not only not be an aid but will be an obstruction that they must remove if they go forward in the great march of civilization. Let us consider who we are.

Alabama is one of the leading States of the American Union, confessedly so, Alabama is great in her wealth and great in her developed resources, great in the quality of her citizenship. She leads the sisterhood of States or will soon lead them. Now you call upon us to put right across the pathway of this great people obstructions to their growth, obstructions to the development of every matter which we are so proud to see from time to time being developed.

As suggested to me it is not part of our promise to undertake to remedy or repeal all unjust laws in Alabama by constitutional provisions. Leave that to the Legislature. But the cry is the Legislature will not act. Whenever the Legislature of Alabama refuses to act upon a matter brought to its attention and in which

the people of the great State are interested, it is proof as strong as holy writ that they ought to refuse.

MR. SAMFORD—I will ask the gentleman if the people have not been applying to the Legislature for relief in the regulation of the railroads of the State a number of years and if, in his opinion, the refusal of the Legislature to give the relief is proof as strong as holy writ that they should have refused?

MR. COBB—If the people of Alabama were earnest in that behalf this legislation would have come long, long ago.

MR. SOLLIE—If the gentleman will permit me, I have conferred with the author of the substitute and have his consent to introduce this amendment to the substitute.

MR. O'NEAL—I object.

MR. SOLLIE—I will read it as a part of my question to the gentleman. "After January—"

MR. O'NEAL—I object.

THE PRESIDENT—Does the gentleman from Macon consent?

MR. COBB—Yes.

Mr. Sollie read the amendment as follows: After January 1st, 1903, no license tax or fee for analyzing or inspecting any merchandise or commodity shall be imposed or collected in excess of an amount sufficient to pay for the reasonable cost of such analysis of inspection.

MR. COBB—I will not consent to that or any other amendment, because I am opposed to the whole thing. You may offer any amendment you please and the whole matter will meet with my stern and uncompromising opposition.

MR. BULGER—May I ask the gentleman a question?

MR. COBB—Yes, sir.

MR. BULGER—Don't you believe that a limitation upon the taxing power is a proper subject to go into the Constitution?

MR. COBB—I do.

MR. BULGER—Don't we do that and put a limit on the taxing power that the tag tax shall not exceed 10 cents on the ton, and is not that a limitation upon the taxing power?

MR. COBB—As suggested to me, and I think the suggestion is a good one, this is a prohibition upon all taxation. But if the gentleman has done me the honor to listen to my general remarks he would have understood my position here and that is that the

Constitution should be a limitation upon the power of the Legislature in matters only that it is necessary that such limitation should be limited to a few great controlling matter. The people are not often swept away, though they are sometimes, by high political excitement, and never about all questions. It is only with regard to certain great leading matters that we want even these limitations upon their power and then as time progresses, as the State develops, as it becomes apparently necessary that there should be additional limitations here and there, the people have it in their power to place them there by amendments to this instrument.

Jefferson, the great apostle of Democracy, said time and time over again that whenever you cease to trust the people you might despair forever of Republican institutions upon this continent. That is the great Democratic idea. And I say that the Legislature is a part of the people, the agents of the people, and the idea is perfectly horrible to me that from time to time agents sent here directly from the people can be manipulated and purchased and influenced and lead away from the discharge of their duties. Yet there is a remedy. The people will take care of these men and it is said by my distinguished friend over there and some of the other gentlemen who pose here as special friends of the farmer, the poor farmers that are taxed to support the rich. And who are they? They are the men who control the State of Alabama today. The farmers of the State of Alabama can elect every Legislature that assembles in these halls. If they don't do it, having the power in that behalf, how does it rest properly in their mouths to get up and say "Oh, our interests are not taken care of." The farmers of this country are an intelligent class of men, a patriotic class of men, a cultured class of men. They know what government is and what it means. They know better than anybody else what their interests require and they know better than any class of men on earth how to put their hands upon their Representatives and force them to obey their wishes.

MR. CARMICHAEL (Coffee)—If we can afford to trust the Legislature in regard to this matter, why can't we trust them on the limitation of the ad valorem tax here, why lower the tax rate from 75 to 65?

MR. COBB—I don't know that we are going to lower it. You are assuming something that may not happen.

MR. SAMFORD—Why limit it at all?

MR. COBB—I have answered that twice.

MR. CARMICHAEL (Coffee)—Well, answer it again.

MR. COBB—That is one of the matters in regard to which there is always danger of the people being carried away in times of unusual and great political excitement and themselves do something to their own hurt. That is the reason.

MR. CARMICHAEL (Coffee)—They are not wise at that time?

MR. COBB—No, sir; they are not. The gentleman laughs—

MR. O'NEAL—Will the gentleman permit a question?

MR. COBB—Hold on and let me get through with this young man. I am not an old man. Sometimes I almost think I am one of the boys yet. I know I like the boys.

MR. WHITESIDE—I rise to inquire whether or not the gentleman's time is out?

THE PRESIDENT—It lacks five minutes.

MR. COBB—Five minutes will do me. I simply want to say to my worthy young friend—I don't know whether he is so very young himself—at all events, I have been knocked and cuffed and kicked about a great deal more in politics than he has yet, and I want to drop to him a vote of warning. Take care what sort of record you are making here today in this Constitutional Convention.

You may find that the people, whose interests you are declaiming for here so eloquently and vigorously, may disagree with you when you get back home, and you may find it difficult to explain away certain matters that may have engaged your attention and best efforts here during this service. If we had done, and if we do, what I believe we ought to do, you will never be in any danger. So far as I am concerned, I do not care. I am a man of the people, and I like the people, and the people have honored me more, perhaps, than I deserve on many occasions, but I started here today to do my conscientious duty, in fear of no one and no men or set of men, and I will be approved by the very men whose friends are here so vociferously talking about the poor farmer.

But my good friend here is very solicitous that I should quit. I expect he is on the other side.

MR. O'NEAL—The gentleman from Pike asked you the question if it was not proper to incorporate in the Constitution a limitation on the power of taxation. I will ask you if this substitute is not an absolute prohibition of the power of the Legislature to tax the products of any corporation?

MR. COBB—That is what I think, but, as I said before, I am not stopping to consider the merits of this question. I am pleading for higher things. That is what I am after. And now, Mr. President, I think there ought to be a limitation upon talk in this hall, as well as a limitation upon other things, and I move to lay this whole matter on the table.

MR. WHITE—On that I call for the ayes and noes.

And the call was sustained.

MR. deGRAFFENREID—Will you have the amendment read?

The substitute for the amendment, offered by Mr. White (Jefferson) was again read.

THE PRESIDENT—The gentleman from Jefferson offered an amendment to Section 1 of the Article reported by the committee; thereupon the gentleman from Jefferson offered a substitute to his own amendment and asked unanimous consent to accept the substitute in lieu of the amendment. Unanimous consent was granted, hence the substitute stands in the place of the amendment, and the proposition is on an amendment to Section 1 of the Article reported by the Committee on Taxation. The gentleman from Macon moves to lay that amendment upon the table. Upon that the ayes and noes are called. As many as favor laying the amendment upon the table will vote aye, and those opposed will vote no, as your names are called.

During the call of the roll:

MR. CARMICHAEL (Colbert)—I am paired with the gentleman from Madison, Mr. Walker; if he was present, he would vote aye and I would vote no.

MR. CORNWALL—I am paired with Mr. Mulkey of Geneva. If he were present, he would vote no and I would vote aye.

MR. FITTS—I am paired with the gentleman from Elmore, Mr. Williams. If he were present, he would vote aye and I would vote no.

MR. HOWELL—In a word, I wish to explain my vote on this question.

To which objection was made.

MR. PARKER (Cullman)—Upon this issue I am paired with the delegate from Blount, Mr. Sloan. Were he present he would note no, and I vote aye.

MR. PORTER—I am paired with the gentleman from Jefferson, Mr. Weatherly. If he were here he would vote aye and I vote no.

MR. TAYLOE—I am paired with Mr. Beavers. If he were here he would vote no and I would vote aye.

MR. WHITE—I am paired with the delegate from Montgomery, Governor Jones. If he were present he would vote aye and I would vote no.

The vote, upon the call of the roll, resulted as follows:

AYES.

Messrs. President,
Ashcraft,
Banks,
Barefield,
Boone,
Brooks,
Browne,
Burnett,
Cardon,
Carnathon,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Craig,
Cunningham,
Davis, of Etowah,
Dent,
Duke,
Eley,
Eyster,
Ferguson,
Fletcher,
Foster,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Greer, of Perry,
Harrison,
Hinson,
Hodges,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Wilcox,
King,
Kirk,
Kyle,
Ledbetter,
Leigh,
Lomax,
Long, of Walker,
McMillan (Baldwin),
Martin,
Merrill,
Miller, of Wilcox,
Norman,
Norwood,
Oates,
O'Neal, of Lauderdale,
O'Neill (Jefferson),
Opp,
Palmer,
Parker, of Elmore,
Pettus,
Pillans,
Pitts,
Proctor,
Robinson,
Rogers, of Lowndes,
Sanders,
Searcy,
Selheimer,
Sentell,
Smith, of Mobile,
Spragins,
Stewart,
Waddell,
Watts,
Weakley,
Williams, of Barbour,
Williams, of Marengo,
Wilson, of Clarke,
Wilson, of Washington,

Total—78.

NOES.

Bartlett,
Beddow,
Bethune,
Blackwell,
Bulger,
Burns,
Byars,
Carmichael, of Coffee,
Case,
Cofer,
Davis, of DeKalb,
deGraffenreid,
Espy,
Foshee,
Freeman,
Gilmore,
Grayson,
Haley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Jones, of Bibb,
Jones, of Hale,
Kirkland,
Knight,
Long, of Butler,
MacDonald,
McMillan, of Wilcox,
Malone,
Maxwell,
Miller, of Marengo,
Moody,
Murphree,
NeSmith,
O'Rear,
Pearce,
Phillips,
Reynolds (Henry),
Rogers, of Sumter,
Samford,
Sanford,
Smith, Mac A.,
Smith, Morgan M.,
Sollie,
Sorrell,
Spears,
Studdard,
Whiteside,
Winn.

Total—49.

ABSENT OR NOT VOTING.

Almon,	Lowe, of Jefferson,	Tayloe,
Altman,	Lowe, of Lawrence,	Thompson,
Beavers,	Morrisette,	Vaughan,
Carmichael, of Colbert,	Mulkey,	Walker,
Cornwall,	Parker, of Cullman,	Weatherly,
Fitts,	Porter,	White,
Greer, of Calhoun,	Reese,	Willet,
Handley,	Renfro,	Williams, of Elmore,
Jones, of Montgomery,	Reynolds, of Chilton,	
Locklin,	Sloan,	

Total—28.

MR. BROWNE—We have been four days on the first section of Article XI. I now move the previous question upon that section.

Upon a vote being taken the main question was ordered, and upon a further vote, a division was called for.

MR. SOLLIE—I vote aye for the purpose of moving to reconsider the vote.

MR. LONG (Walker)—I make the point of order the gentleman cannot vote aye on a viva voce vote.

MR. SOLLIE—I stand up as the Chair directed, and vote aye for the purpose of moving to reconsider.

THE PRESIDENT—In reference to the point of order made by the gentleman from Walker, the Chair is of the opinion that the point of order is not well taken. In Congress they have a rule that except upon a yea and nay vote, a reconsidertion cannot be moved. In other words that it cannot be ascertained except by a yea and nay vote whether a man voted in the affirmative or in the negative. But all the authorities upon general parliamentary law that the Chair has been able to examine, hold that any one who voted with the affirmative of the proposition may move to reconsider, and it is not limited to instances where the vote was taken by yeas and nays. The Chair preferred to make some statement upon that question, since it has been raised several times, and it has, therefore, been examined carefully.

MR. SOLLIE—Now I move the reconsideration, which I understand don't come up until tomorrow.

The Chair announced by a vote of seventy ayes and thirty-three noes, the section was adopted.

THE PRESIDENT—The Secretary will read the next section.

Section 2 was read as follows:

Sec. 2. No power to levy taxes shall be delegated to individuals or private corporations.

MR. HOWZE—I move the adoption of the section.

Upon a vote being taken the section was adopted.

Section 3 was read as follows:

Sec. 3. After the ratification of this Constitution, no new debt shall be created against, or incurred by this State, or its authority, except to repel invasion or suppress insurrection, and then only by a concurrence of two-thirds of the members of each House of the General Assembly, and the vote shall be taken by yeas and nays, and entered on the journals; and any act creating or incurring any new debt against this State, except as herein provided for, shall be absolutely void; provided, the Governor may be authorized to negotiate temporary loans, never to exceed $300,000 to meet the deficiencies in the Treasury; and until the same is paid, no new loan shall be negotiated; provided further, that this section shall not be so construed as to prevent the issuance of bonds for the purpose of refunding the State's existing bonded indebtedness.

MR. JENKINS—I move the adoption of that section.

MR. OATES—I intended to offer an amendment, and I believe it is now five o'clock—

THE PRESIDENT—The time for adjournment has not yet arrived. Does the gentleman withdraw the motion?

MR. JENKINS—For the purpose of considering the amendment, I withdraw my motion.

MR. OATES—I propose to offer an amendment, and desire that it be read, and I wish to be heard on it before any action is taken. The amendment will come at the close of the section, or wherever may be the most appropriate place in the latter part of the section.

The amendment was read as follows:

That the Legislature shall, at its first session after the ratification of this Constitution authorize the Governor of the State to cause to be issued (8,500,000) eight million, five hundred thousand dollars, face value of State bonds, to mature fifty years after the date and to bear not more than 4 per cent. per annum, payable semi-annually; and that eight million, four hundred and three thousand six hundred dollars ($8,403,000) of said bonds shall be used exclusively for the redemption by exchange or otherwise, for an equal amount face value of the Class A, Class B and Class C bonds of the State, which when thus redeemed shall be destroyed; and that the bonded debt of the State shall never in any event exceed nine million, five hundred thousand dollars.

Sec. 2. That it shall be the further duty of said Legislature, at its first session after the ratification of this Constitution, to

authorize the Governor, Auditor and Treasurer of the State, to obtain by purchase, in the name of and for the use of the State Capitol, all of the square of land upon which the Capitol Building is situated south of said building to Washington Street, bounded west by Bainbridge and east by Union Street, provided, said property can be purchased at reasonable prices, but if not in the opinion of the Board, then the same shall be condemned on proceedings, to be instituted by said Board in the name and in behalf of the State, and to be had according to the provisions of Article I, Chapter 42, of the Code of 1896, which shall be applicable thereto.

Sec. 3. That all of the bonds in the first section hereinabove provided for, over and above the eight million, four hundred and three thousand six hundred dollars to be used in redemption or exchange for that amount of outstanding bonds Class A, Class B, and Class C to wit, $96,400, shall be sold by the said Board, consisting of the Governor, Auditor and Treasurer, after due notice given by publication in at least three daily newspapers, to the highest and best bidder, which said bonds shall bear not more than three and a half per cent. per annum payable semi-annually, and which shall not be sold for less than their face value, and when so sold the proceeds shall be covered into the treasury, and shall be used by said Board to pay for the said lands on said square when purchased or condemned as aforesaid, and so much of the money arising from the sale of such bonds as may be necessary to permanently improve the Capitol Building and to pay for the private property on said square purchased or condemned as aforesaid may be used for such purposes.

Before the reading was concluded the hour of adjournment arrived. By unanimous consent the reading was concluded, and thereupon the Convention adjourned.

CORRECTIONS.

The point of order made by Mr. Pettus should read:

MR. PETTUS—The gentleman from Walker moves to table both amendments, and the Chair has repeatedly held that was a matter in the discretion of the gentleman making the motion, and a call for a division is not in order.

PRESIDENT PRO TEM—The Chair so rules.

On fourth page, just above roll call, the announcement of a pair with Mr. Hinson was made by Mr. Carmichael (Colbert) instead of Mr. Carmichael (Coffee).

The call for a division on the motion to table the amendment and amendment to the amendment to Section 1 of Report of Committee on Taxation, just before roll call on page 4 of proceedings,

was made by Mr. Whiteside, and not by Mr. Parker (Elmore), to whom it was attributed.

In proceedings of 25th inst. sentence right is right and God is God, by Mr. Heflin (Chambers) should be right is right as God is God.

THIRTY-SECOND DAY

MONTGOMERY, ALA.,
June 28, 1901.

The Convention met pursuant to adjournment, was called to order by the President and the proceedings were opened with prayer by the Rev. Mr. Lamar, as follows:

O Lord we have laid down in peace and slept in safety because Thou hast watched over us. And we render to Thee praise and thanksgiving for Thy providential care. And now Lord as we face the duties the temptations, the duties and responsibilities of another day, we ask Divine guidance, grace and strength that we may be properly fitted to meet them all. We beseech Thee to save this day Thy servants from harm. So direct them that their labors may be wise and Lord grant that under Thy direction they may do that which is for the good of our kind and the glory of Thy name. Accept these our prayers, guide us in all our ways, and at last receive us unto Thyself, we ask for Christ sake, Amen.

The roll was called and showed the presence of 140 delegates.

The following leaves of absence were granted:

Indefinite on account of sickness—Mr. Williams (Elmore); Mr. Vaughan.

For Wednesday, Thursday, Friday—Mr. Willett.

For Saturday and Monday—Mr. Boone, Mr. Porter, Mr. Harrison, Doorkeeper.

For Saturday—Mr. Mac. A. Smith, Mr. Henderson, Mr. Kirkland, Mr. Long (Butler.)

For Saturday, Monday and Tuesday—Mr. Bartlett.

For Thursday, Friday and Saturday—Mr. Beavers.

For Friday, Saturday, Monday, Tuesday, Mr. Morrisette.

For yesterday and today—Mr. Dent from 4 o'clock today until 11 o'clock Monday; Mr. Howell for today and Tuesday.

The report of the Committee on Journal that the Journal for the thirty-first day was correct, was read and adopted.

On the roll call for the introduction of resolutions, ordinances, etc., the following were introduced.

Resolution No. 200 by Mr. Burns (Dallas.)

Whereas, this Convention has seen proper to reject all amendments to Article V looking to the relief of sheriffs, and whereas the Supreme Court, has already been burdened with sufficient labors; and, whereas, local government should be maintained and for other valid reasons.

Resolved, That it is the sense of this Convention, that Section 30 of Article V, should be stricken out and the sheriffs should be left on the same footing, as other county officers.

Referred to the Committee on Executive Department.

Ordinance No. 404 by Mr. Coleman (Walker.)

Whereas, ample provision is made by law for the impeachment of officers, and whereas it is contrary to the policy of this government that any part of the powers of our department should be exercised by any officer of another department, and whereas it is contrary to the spirit of our institutions that any person should be punished before trial.

Now, therefore, be it ordained by the people of Alabama in Convention assembled, That the following part of Section 28 of Article V adopted by this Convention be and the same is hereby annulled, to wit: "And the Governor when satisfied after hearing the sheriff, that he should be impeached may suspend him from office until the impeachment proceedings are decided."

Referred to the Committee on Impeachments.

MR. DUKE—I have a resolution which I desire to have referred to Committee on Consistency and Harmony.

Resolution No. 201 by Mr. Duke:

Whereas, there appears in The Huntsville Mercury the following article, to wit:

"The past five days have been record breakers in the hot weather line, said a prominent citizen. I have been unable to sleep until the small hours of the night and I am afraid we can't call Huntsville a summer resort any longer. Last night I couldn't sleep owing to the heat, so decided to take a stroll over the deserted streets. Now if I was the least bit superstitious, I would say that I have seen ghosts. On every street I would see some white figure sitting in the windows, looking like phantoms in the stillness of midnight. Upon closer investigation the ghosts were

found to be some poor mortal whose surroundings were as hot as mine. This is the hottest spell we have ever had in the recollection of the oldest inhabitants."

And, whereas, said article indicates a fearful state of suffering in the city of Huntsville from the immense heat in that section of the State.

And, whereas, Monte Sano, an erstwhile summer resort is in close proximity the said city of Huntsville and must be suffering also from the intense heat of that region of the State.

And, whereas, many delegates to this Convention state that, owing to the strong breeze, they were forced to close the blinds of their windows to prevent catching cold on last night.

And whereas, no such condition, to say the least, as that described in the above article prevails in the city of Montgomery.

Therefore, be it resolved by this Convention that the citizens of the aforesaid Huntsville, and Monte Sano, be invited to come down to the city of Montgomery and look in upon the Convention, and remain in the said city of Montgomery during the heated season, where the gentle breezes ever blow, and where no such apparitions as that described in the said Huntsville Mercury ever disturb the citizens or its visitors.

MR. GRAYSON—Does that refer to the snowy heights of Monte Sano or to the low level of Huntsville.

THE PRESIDENT—That is referred to the Committee on Miscellaneous Provisions.

Resolution No. 202, by Mr. Foster:

Resolved: 1—That the Committee on Rules is hereby instructed to examine all the reports of the standing committees which have already reported, and the reports which shall hereafter be made by the standing committees, and assign to each section of said report such time as in its judgment should be allowed for debate thereon.

2—That when the time so assigned by the Rules Committee to any section shall have been consumed in debate thereon, all debate on such section and pending amendments shall immediately cease and a vote be taken thereon; provided, that the mover or chairman of the committee proposing the pending matter may, unless he shall have already spoken twice, speak to the matter for fifteen minutes, after the time for debate has closed.

3—That no delegate, except the mover or chairman of the committee proposing the pending matter, shall speak more than once to the same question, for more than ten minutes at any time. The mover or chairman of the committee proposing the pending

matter may speak fifteen minutes on opening, and twenty minutes in reply.

4—This resolution shall not apply to the report of the Committee on Suffrage and Elections.

Referred to Committee on Rules.

Resolution No. 203, by Mr. Graham (Talladega):

Resolved, That beginning with next Monday the afternoon sessions of this Convention shall be from 3:30 to 5:30 instead of 3 to 5.

Referred to the Committee on Rules.

Resolution No. 204, by Mr. Heflin (Chambers):

Resolved, That after today the Convention shall convene in this hall at 9 o'clock a. m. and remain in session until 1 o'clock p. m., and reconvene at 3 o'clock and remain in session until 6 o'clock p. m.

Referred to the Committee on Rules.

Resolution No. 205, by Mr. Jackson:

Resolved, That no delegate in this Convention be permitted to speak more than ten minutes on any subject under discussion, except the mover of an amendment or substitute, who may use ten minutes each in opening and closing debate, and the chairman of a committee in the discussion of a report made by the committee of which he is chairman, who shall have thirty minutes to open and close. Provided, that whoever may move to reconsider any action of the Convention shall have the time accorded the chairman of the committee, the report of which committee is under consideration, provided further that any delegate may have his time extended by permission of the majority of the delegates present.

Referred to the Committee on Rules.

Resolution No. 206, by Mr. Reese:

Whereas, but little time of this Convention is consumed by the regular call of the roll for the introduction of ordinances, resolutions, etc., and

Whereas, much unnecessary consumption of time is had in explaining and obtaining unanimous consent or suspension of the rules for the introduction of ordinances, resolutions, etc.,

Therefore, be it resolved, that hereafter the roll call for the introduction of ordinances, resolutions, etc., shall not be suspended except by unanimous consent.

Second, that no resolution or ordinances shall be introduced at any other time except by unanimous consent.

Third, it will be in very bad taste on the part of any member taking up the time of this Convention in asking said consent except in dire and pressing emergency.

Referred to Committee on Rules.

Ordinance No. 405, by Mr. Reynolds (Chilton):

Whereas, the newspapers of the State are highly influential in molding public sentiment, and

Whereas, newspapers, as well as individuals, are biased necessarily in favor of those from whom they receive gratuities.

Be it ordained by the people of Alabama in Convention assembled, that no newspaper in this State, or representative, or other free transportation from any railroad company doing business within this State. That the newspaper, in the event that it or its representative, receives, accepts and uses such free transportation, shall be fined not less than $500 for each violation of this section of the Constitution, and that the railroad company who itself or through its agent, issues such pass, free pass or transportation, shall be fined a like sum for each violation of this section.

Referred to Committee on Legislative Department.

Mr. Spragins offered the following petitions, which were read on motion.

Petition No. 8—

Hons. R. E. Spragins, A. S. Fletcher, R. W. Walker, J. W. Grayson and Members of the Constitutional Convention:

Huntsville, Ala., June 15, 1901.

Believing that privilege licenses as levied and collected from the merchants of our city is double taxation, and that by such means the merchants are made to pay more than their part of the public burden, we hereby urge you to introduce and work for the passage of an ordinance to be ambodied in the Constitution seeking to protect us from city licenses. (Signed):

W. L. Halsey, R. E. & W. E. Pettus, W. J. Bennett & Co., Southern Produce Co., D. V. Amberg, Mgr., J. A. Anderson & Co., T. A. Thurston, Senys Grocery Co., R. King Grocery Co., Mrs. Julia H. Wise, Terry Bros. & Rogers, J. W. Gill, C. B. Wilbor, R. F. Simpson, Shielas & Co., Brown & Phillips, Cantrell & Young, M. S. Barnett, H. Scholle, Duncan & Winston, W. A. Brewer, Wheeler Bros. & Gast, E. Lambert, Laxson & Kelly, Thomas H. Gilbert, L. J. Gaines, S. O. Holmes, E. C. Orgain, A. B. James, H. E. Damson, Huntsville Drug Co., Louis Edelman M. D., A. C. McGhee, grocer; W. T. Nichols, J. Keller, M. Adler, Mrs. W, A. Parks, P. Lamborda, J. W. Martin, Demeur Bros., Newman G. Schloss, Charles C. Anderson, W. H. Weil & Co., M. A. Collins, J. H. McAnelly & Bro., D. W. Tafts, T. H. Wade, W. H. Watkins, Metcalfe & Grosser, R. B. Johnson, C. H. Pulley &

Co., J. W. Blake & Bro., Darwin & Fuller, E. T. Terry & Co., W. S. Smith & Co., Alabama Implement & Seed Co., Harrison Bros., Frank H. Neuman, Miss Vogel, J. D. Graves, Mrs. L. A. Ford, A. S. Daniel, A. E. Overton, E. A. Rankin, J. Jacoby M. Co., A. J. Stewart, H. T. Daniel, K. J. Harrison, Y. B. Warner, E. Mullins & Co., Louis Zinsberg Co., A. C. Campbell, Murray & White.

Petition No. 9—

Huntsville, Ala., June 14, 1901.

To Hons. R. E. Spragins, John W. Grayson, A. S. Fletcher, and R. W. Walker, and the Members of the Constitutional Convention:

At a meeting of the Wholesale Grocers' Association held in this city this morning, the following resolution was passed:

Resolved, That we, the Wholesale Grocers' Association of the city of Huntsville, most respectfully urge you as our representatives in the Constitutional Convention, to use your utmost endeavors to have a clause in the Constitution of the State of Alabama, requiring the election of Railroad Commissioners by the people, and paid by the people, as other officers are paid.

We ask this, believing that the interest of the trade generally generally demands it as fair and just.

Yours very truly,

W. L. Halsey, President.

R. E. Pettus, Secretary.

Resolution No. p 207, by Mr. Waddell:

Be it resolved by the Constitutional Convention of the State of Alabama, that no person shall be entitled to the floor for the purpose of debate for a longer period than ten minutes, except the chairman of the committee whose article is under consideration, and he shall be allowed twenty minutes to open and ten minutes to close the debate on any subject which is up for consideration under his article, provided the provisions of this resolution shall not apply to the Committee on Suffrage and Elections.

MR. WADDELL—I move to suspend the rules for the purpose of putting that resolution on its passage.

MR. deGRAFFENREID—I move to lay that motion on the table.

THE PRESIDENT—A motion to suspend the rules cannot be tabled.

A vote being taken, the House refused to suspend the rules, and the resolution was referred to the Committee on Rules.

THE PRESIDENT—The next order of business will be the call of the standing committees.

The call was completed and no reports made.

MR. BULGER—I ask to offer a resolution as my name was passed.

THE PRESIDENT—Is there objection?

There was objection.

THE PRESIDENT—The next order will be the special order, the consideration of the report of the Committee on Taxation.

MR. SOLLIE—I rise to a point of order.

THE PRESIDENT—The Convention had under consideration Section 3 of the report of the Committee on Taxation to which the gentleman from Montgomery offered an amendment and when the Convention closed the gentleman from Montgomery had the floor, but the Chair will recognize the gentleman from Dale in a point of order.

MR. SOLLIE—If there was a gentleman holding the floor, I do not care to urge the point of order. The point I was about to make was that the motion to reconsider would be next in order. I withdraw the point of order with the understanding that I will make it later.

MR. OATES—Before proceeding, I ask the Clerk to change the figure "four" in the eighth line and make it "three and a half." The Convention has not entered upon the consideration of the amendment and I think I have a right to amend it.

By consent the change was made.

MR. OATES—Now, Mr. President, I confess that I enter upon the consideration of this matter with some misgivings because of certain opposition that has been made known to me in a very respectful and kind manner by the Committee on Taxation which reported the proposition. But I feel it my duty to discuss this amendment briefly to this Convention and to call the attention of the Convention to it and try to impress upon them just what is meant by it. All of us know that the State of Alabama has a bonded indebtedness of nine and one-third millions of dollars. Over nine hundred thousand of that is represented by four per cent. bonds most usually called Seay bonds because when Seay was Governor he negotiated those bonds in lieu of bonds bearing six per cent interest which the legislature had authorized prior to that time in order to take up what was known as Horse Shoe money. There was a million dollars of that issued by authority of the Legislature years before which was a kind of lien. You will recollect there were bills of money and coupons on the bank in the shape of horse shoes. They bore eight per cent. interest and were sold in the market frequently as low as fifty cents on the dollar, but they improved until they reached par when it was found that

the Legislature proposed to refund them in a six per cent. bond. But that was not conclusive and the Legislature subsequently believing that a bond bearing a lower rate could be substituted for them passed an act authorizing the Governor, when Seay held that office, to negotiate such refunding bonds, and he succeeded in negotiating four per cent. bonds which do not mature until 1920. So that amount of our bonded debt is not included at all in the proposition I offer. With the exception of the Seay bonds, represented generally by the letter C, bonds resulting from that settlement when Mr. Houston, Mr. Lawler and the Governor were the Commissioners and which have always been four per cent. from the first to the present time, $945,000. They are included with the Class A and B bonds and of the Class B there is not quite $600,000. They were given for the release of the State or to take up the State's obligation or bonds which had been unwisely issued by act of the Legislature and given to certain railroads to lease the State from its endorsement of their bonds at $16,000 per mile. I believe these bonds were for $5,000 a mile and the amount that had been issued then and used in that way when the credit of the State broke down is represented by the five hundred and odd thousand dollars of bonds and they bear five per cent. interest. Of the Class A there is in the neighborhood of $7,000,000, and they bear five per cent., as do also the B bonds, and Class C bonds bear four per cent. and all three classes of these bonds mature five years from the first day of next month, July 1, 1906.

As the State will not be in condition to pay off these bonds at that time, it is necessary in advance to prepare for some way of meeting this bonded debt.

MR. deGRAFFENREID—May I ask the gentleman a question for information?

MR. OATES—Yes, sir.

MR. deGRAFFENREID—Cannot that be done under the section without your amendment by the Legislature?

MR. OATES—I think it can possibly be done under that, but I have yet to learn that in a delicate matter of so much importance as this, dealing in millions of dollars, there is anything to be lost by being more definite in what we say about it. That is a general declaration. The Legislature may provide for refunding the bonded debt.

MR. deGRAFFENREID—The point I want to make is, is not your amendment a legislative act?

MR. OATES—No, it is simply a direction for the Legislature and so reads.

Gentlemen will find it in the stenographic report. This section is:

"That the Legislature shall, at its first session after the ratification of this Constitution, authorize the Governor of the State to cause to be issued ($8,500,000) eight million, five hundred thousand dollars, face value of State bonds, to mature fifty years after date and to bear not more than 3 1-2 per cent. per annum, payable semi-annually; and that eight million, four hundred and three thousand six hundred dollars ($8,403,600) of said bonds shall be used exclusively for the redemption by exchange or otherwise, for an equal amount face value of the Class A, Class B and Class C bonds of the State, which when thus redeemed shall be destroyed."

Then there is a provision that the bonded debt of the State shall never in any event exceed $9,500,000. I put that latter clause in because I think the limit of bonded indebtedness should be declared in the Constitution. It adds somewhat to the value of your bonds when you show to the world that the State is not going to over burden itself with bonds.

Now the Legislature of 1894-95 passed an act for this purpose, to refund the bonded indebtedness and authorized the Governor to do so. I, having the honor at that time of holding that position, went to New York and spent several days in Wall Street trying to effect it. A provision was put into that law which was not just as I advised. It was in substance but the limitations were not. A committee of one of the Houses conferred with me and I advised to facilitate the exchange of bonds to put in a proposition that the bonds first exchanged should be the last to be redeemed and the last exchanged to be the first to be called, and I suggested to make none of them subject to call for redemption in less than thirty years. They differed with me and made it fifteen. When I went to Wall Street they said "These are but fifteen year bonds because they are subject to be called in fifteen years," and they calculated their value on that basis and that with another reason rendered it impossible to make an exchange. And that other reason was this: Owing to the language of the present Constitution declaring that any increase of the bonded debt should be wholly void, these bond holders obtained an opinion from an able firm of lawyers, of which I remember Mr. Hornblower was at the head, that if you undertook an exchange of these new bonds (the Governor had them printed and proposed to exchange them) and they said we do not know whether these exceed your present bonded debt or not. We suppose they do not as you have no right to do it, but if they do they will be a nullity and nobody will risk an exchange of a bond that is good for an uncertainty. Therefore under our present Constitution it was impossible to effect a refunding. I failed for these reasons. A subsequent legislature amended that act when Mr. Johnston was Chief Executive, practically annulling nearly all the conditions and making them fifty year bonds and turned him loose and he did not do it and I pre-

sume he encountered the same difficulty that I found. So it seems to me that the refunding is a matter very much to be desired and I offer this amendment not in any antagonism to the committee at all but in harmony with its declaration in favor of refunding the bonds, but this is more specific and directs what shall be done. Right preceding it in this very section we are considering it declares that any new debt created, with the exceptions named therein, shall be wholly void and then puts in a proviso that the Governor may borrow $300,000 to meet deficiencies in the treasury. Then it says the legislature may provide for refunding the bonds. With that declaration just preceding it that any additional debt shall be wholly void and this declaration in the report of the Committee that the Legislature may have the power to refund, there seems to be a conflict, and I do not know what the New Yorks will say on that. This amendment cannot do any harm. It is not in violation of or in conflict with the report to make it more specific as this first paragraph of the amendment I offer does, and whenever a section is passed if there is any conflict it can be easily accommodated to what has been done. Now is not this desirable. What I offer here is simply in aid of the proposition the gentleman make.

MR. BULGER—Is there any provision in the present Constitution or any proposed provision in the new constitution that prevents the legislature from doing just what you purport to have done?

MR. OATES—Yes, sir. If the gentleman had listened to me he would have heard me say that under the present constitution I spent several days in Wall Street trying to effect this thing and the moneyed men obtained an opinion from a distinguished law firm at the head of which was Mr. Hornblower that it could not be done under the Constitution, that any new debt would be wholly void, and it would be so considered, and they would not make any trade or exchange, so that the Legislature under the present Constitution is hampered.

Now this Committee's report proposes to authorize it by saying that the Legislature can make provision for the refunding of the bonded debt. This first section is simply in aid of that declaration, making it more definite and not at all inconsistent with it, and the Governor what to do in effecting this refunding. Now what is this practically? The new bonds proposed to be issued are to run for fifty years. Of course the date of their maturity would be after every member of this convention has passed over the river and gone to his grave. It would come up for a subsequent generation to pay. A three and a half per cent—and if it is ascertained to be practicable to negotiate them at a lower rate, there is nothing to prevent the legislature from doing it. I first put it in not to exceed four, so as to allow them a fair latitude, but as it was thought by some that that would induce bondhold-

ers to lobby and try to get 4 per cent and as I believe it practicable to refund them at 3 1-2 when they have a long time to run, I by consent changed that to 3 1-2. I presume every gentleman here knows that it adds considerably to a bond to have a longer time to run. Bonds bearing the same rate of interest one issue to run for fifty years and another issue to run for twenty years, the longer term bonds are worth considerably more because it is idle capital that seeks investment in bonds and they don't want to have to reinvest early, and the investment that lasts longest, with equal security, and looking alone to the security of interest on that investment and freedom from taxation.

Now, I have shown there is nothing in this inconsistent with the report of the committee, but that it will really go in aid of it making more definite directions to the Legislature in making provisions for the exchange. There is no conflict whatever.

Now, gentlemen, is it not desirable? You make the calculation between the rate of interest paid at the rate it now bears and at 3 1-2 per cent. you will find there is a difference of $126,000 a year. Is not that worth saving to the people of Alabama? It is cutting down their taxes that much. It takes time to get ready for such a transaction as this, and when you are dealing with millions movements have to be slow and cautious, and you have to be more particular in your provisions than in ordinary transactions.

No, I have briefly stated the object and purpose of offering that section. I have offered my amendment severally because I did not know what would be the will of the Convention, and if the Convention should only wish to deal with part of these propositions, they could easily do so.

MR. HARRISON—I would like to ask the gentleman a question.

MR. OATES—Certainly.

MR. HARRISON—Have you any doubt as to the authority of the Legislature under the article as reported by the committee and here read to refund this debt?

MR. OATES—Possibly they would have that right but the language which says that any debt shall be wholly void might render it difficult.

MR. HARRISON — Then your proposition is to go a step further, not only to authorize the Legislature, but to tell them how to do it?

MR. OATES—That is it as to that section. I don't want to take up time needlessly, but I think I am prepared to answer any question that any gentleman want to put to me on that line. Then I have the further propositions:

Sec. 2.—That it shall be the further duty of said Legislature, at its first session after the ratification of this Constitution, to authorize the Governor, Auditor and Treasurer of the State, to obtain by purchase, in the name of and for the use of the State Capitol, all of the square of land upon which the Capitol Building is situated south of said building, to Washington street, bounded west by Bainbridge and east by Union street; provided, said property can be purchased at reasonable prices, but if not in the opinion of the Board, then the same shall be condemned on proceedings, to be instituted by said Board in the name and in behalf of the State, and to be had according to the provisions of Article 1, Chapter 42, of the Code of 1896, which shall be applicable thereto.

Sec. 3.—That all the bonds in the first section hereinabove provided for over and above the $8,403,600 to be used in redemption or exchange for that amount of outstanding bonds Class A, Class B and Class C, to-wit, $96,400, shall be sold by said Board, consisting of the Governor, Auditor and Treasurer, after due notice given by publication in at least three daily newspapers, to the highest bidder, which sold bonds shall bear not more than 3 1-2 per cent. per annum, payable semi-annually, and which shall not be sold for less than their face value, and when so sold the proceeds shall be covered into the Treasury, and shall be used by said Board to pay for the said lands on said square when purchased or condemned as aforesaid, and so much of the money arising from the sale of such bonds as may be necessary to permanently improve the Capitol Building and to pay for the private property on said square purchased or condemned as aforesaid may be used for such purposes."

Now, sir, some gentleman think, and I hope it is true, that there may be no necessity for this provision because they think that the treasury will be so full that there will be a surplus of probably $100,000 or more which could be used by the Legislature for these purposes. I think, that is a calculation which may fail. Nearly all calculations that are made with reference to the amount of income from the various sources are not always certain, they are frequently disappointing. I don't care if gentlemen want to limit that with the proviso that such bonds shall not be sold, provided there be sufficient surplus money in the treasury. But, Mr. President, let me inquire first whether the purposes to which it is to be applied are necessary, because if not then of course the whole thing falls. Now, is it necessary and proper to enlarge and improve this capitol building? Everyone knows that this building which has stood for fifty years is not going to stand and answer the purposes of a capitol unaided very much longer, and if we consult other States that have recently built State houses, we will find that it will cost from $700,000 to $1,000,000 to build a suitable one. Anyone who will inspect this old building carefully, any architect will tell you that, that it must be renovated and improved

greatly or soon have to be substituted by a new one. Now, can it be made a good capitol, without going to that vast expense? I think so. Put a new roof on the building of first class material, and extend the two front wings, say forty feet north and south. Any gentleman who has an eye for architecture, or architectural beauty and symmetry, who will look from below the steps, will see it would be vastly improved by such extension, because the building is too tall for its length north and south, and such an extension would add greatly to its appearance, and such an extensive as that on a much larger scale was made by the Congress of the United States to our great capitol up there. The only criticism on that was that it extended so far that viewed from down the street or at a distance it is too low at the middle for its great length, but this would not. Forty feet would enlarge the two halls and would enable the galleries to be such as our beautiful ladies and gentlemen who visit the hall would desire and make them comfortable. Until lately there was nothing but benches around there, the rudest kind of so-called accomodation. Chairs are circled around there. There are nothing but hard chairs in a circle around there now and it is not at all suitable to the great State of Alabama. But nice galleries will be made and larger halls and more ample accommodations for all the State officers.

Any one who will look at the Auditor's office will see that great and growing office is too small in room, it should have a larger room added. The Governor's office is confined in a little 12x14 room which very poorly commends itself to strangers to see the Governor penned up in that little space. He should have a large room 30x40 feet square with proper furniture, so that when the stranger enters the chamber of the Governor, he will be favorably impressed and think that we are an appreciative people. Then sir, what will it do? These improvements can be made in this building at an expense of from $30,000 to $40,000, and what will it result in? It will give us a good capitol here for thirty years to come. Is that not a measure of economy rather than to wait a few years until we have to build a new one? I think it is. Who wants this old capitol, full of historic memories, to be thrown aside and converted into waste and destroyed? Why, sir, it so happened that this is the Cradle of the Confederacy. Here assembled the first Confederate Congress in the Senate Chamber. I then, quite a young man, came to see that sight. From that gallery I saw assembled Toombs, Cobbs and that wonderful deformity in physical manhood, but giant in intellect, Alexander H. Stephens, and numbers of other able men from the Empire State at our door. From South Carolina and others of their ablest men. Here too, Alabama had very able men as her representatives in that Congress. Judge John L. Shorter from East Alabama, and able men from all parts of the State, among whom I believe——

THE PRESIDENT—The time of the gentleman from montgomery has expired.

MR. OATES—I would thank the Convention to allow me a little more time to finish what I have to say, I am not going to repeat, and I am not going to consume any unnecessary time.

MR. HEFLIN (Randolph) — I move that the gentleman's time be extended ten minutes.

MR. BULGER—I move to amend the motion that the time be extended until he concludes his remarks.

MR. HEFLIN—I accept the amendment.

The motion of the gentleman from Randolph as amended by the gentleman from Tallapoosa was adopted by the Convention.

MR. OATES—I thank you gentlemen of the Convention for this indulgence, I will endeavor not to tax your patience but get through as quickly as I can with this explanation. I will not go further in the production of names, in calling the attention of the delegates to them, more than to say that among Alabama's delegation there, I believe, but one today survives, the distinguished philanthropist and orator, Jabez L. M. Curry—he is a specimen of the ability that represented Alabama in that Congress. Tennessee and all the other Southern States were there represented. Now, whether any gentleman thinks that the cause in which they assembled was right or wrong, is not the question, it began one of the greatest events in the history of the world, that ever occurred, and the place in which such a thing occurred as time rolls on is revered and respected and people want to see it. Without going any further, or speaking of the inauguration of the first President of the Confederacy at this Capitol and other incidents that here transpired, is there any gentleman who wants to throw aside this old Capitol Building when it is still practicable to improve it, renovate it, extend it and make a splendid and handsome Capitol for the State. The estimate for the ground is that it can be purchased for $50,000 or possibly $56,000 is the limit—$40,000 for the improvement of the Capitol. Gentlemen, do you not feel a sufficient pride in the Capitol of your State to spend this much for it? Then when that is done, and when the Legislature finds a surplus in the treasury as it is urged it will, then expend some of that surplus in erecting a mansion for your Governor on the southeast corner, and our good ladies who sought in the last Legislature an appropriation of $2,500 for their White House can be put on some suitable place in this square for the deposit of the archives of the Confederacy, they could have a corner and convert it into a park which would be inviting to all the people. When strangers visit us, it would tend to elevate their opinion of the people of Alabama when it is seen by them that we care so much for our Capitol and its beautiful grounds around it.

There is not a Capitol of any State in the Union more beautifully situated than this, then why allow a part of the square upon which it stands, and right near its doors, to be stables and old shacks destroying and greatly impairing its beauty? Now, gentlemen, if there is any other way of doing this thing more acceptable, why all right, do it. What I desire is that it shall be accomplished. I have no personal interest in it except as a citizen of Alabama. I have no personal interest in the refunding of the bonds except as a citizen of Alabama, and as such probably at a sacrifice, because it is my fortune to own some bonds which I would rather have at 5 per cent. than 3 1-2 per cent., but I think it my duty to have the bonds refunded and save the difference to the people of Alabama. Gentlemen, can you do it in a better way? I don't know any. There is no disrespect to anyone in it, to the Legislature, it is a direction, a plan which would be perfectly acceptable, and if you think it ought to have any conditions attached to it, put them to it. I have discharged my duty. By an explanation of this proposition, I have done my duty in bringing it before you, if you see proper to vote them down, let them go by the board, that is not my business and it does not affect me. In the discharge of what I conceive to be a duty I bring these things before you, the representatives of the sovereign people of Alabama, for that is what you are, not an Executive Department, not a Judicial Department, but all combined. It is the people of the State speaks through this body, and if you see and know that a thing would be beneficial to the whole people of the State, why hesitate or haggle about it or the way in which it shall be done? It is not disrespect to the Legislature or anybody else, and if it is practicable, and you believe the people will justify you in adopting it, why not do it? I could add very much more, but I will not further trespass on your time which you have so generously given to me.

MR. CUNNINGHAM—May I ask the gentleman a question?

PRESIDENT PRO TEM. PETTUS — Will the gentleman permit a question?

MR. OATES—Certainly.

MR. CUNNINGHAM—It is said, and correctly said, as I understand, that the value of a bond is determined by the rate of interest and the time it has to run.

MR. OATES—Correct.

MR. CUNNINGHAM—The effect of this amendment would be, therefore, to fix the value of the bonds, refunding the debt of the State of Alabama six years in advance of their maturity?

MR. OATES—Yes, sir.

MR. CUNNINGHAM—Inasmuch as this would be in the organic law of the State, now isn't it possible that at the end of

five years, the financial condition of the country may have changed in such a way as to increase the interest earning power of money and thereby cripple the State in refunding the debt at the par value at the rate of 3 1-2 per cent. interest? That is one side. Again, might not the earning capacity of money decrease to such an extent that the debt could be refunded at less than 3 1-2 per cent. and finally would not this provision in the Constitution of the State at this time have the effect of fixing the value of the present bonds of the State of Alabama, inasmuch as it provides a definite manner in which they are to be refunded? In other words, would it not naturally increase the value of the present bonds of the State at the present time?

MR. OATES—I will state in reply to the question that it might have some slight effect upon them, but the premium now on these bonds bearing 5 per cent. is 10; they sell at 110. I don't know the fluctuations, it might have some little effect, but if you will observe the language of the amendment I offer, it is "not exceeding 3 1-2 per cent.," and I believe it will always be practicable unless some misfortune overcomes this country, not now apprehended, that 50-year bonds can easily be floated at 3 1-2 per cent. If at the time the Legislature acts, when they come to pass the act contemplated, they find that the bonds can be floated and the debt refunded at a less rate of interest, this does not hamper them—it says "not exceeding."

MR. COLEMAN (Greene)—Mr. President and delegates to the Convention: The delegate from Montgomery who has just addressed you is always entertaining and instructive, and we are apt to be carried with the current of his words and lose sight of the pertinancy of what he says upon the issue before us. If any delegate has been impressed here by his remarks that the State of Alabama would lose $123,000 to be gained by refunding of the debt unless his plan was adopted, you have simply been led away by the words he was using, and not by the force and effect that should be given to them. If any delegate here has been impressed with the idea that the Capitol building, the grounds, cannot be selected except by the adoption of the amendment, I think you have followed the force and effect of his argument with little purpose. Not one proposition contained in that amendment—except that which refers to the selection of the grounds and the appropriation for the improvement of the Capitol—but what has been provided for in the section as prepared by the Committee on Taxation. We discussed thoroughly all these phases of the question that could possibly arise. We have used the language which has stood the test of the courts and satisfied the capitalists who were to loan the money. Section 3 reads as follows:

Sec. 3.—After the ratification of this Constitution, no new debt shall be created against, or incurred by this State, or its authority, except to repel invasion.

That was a provision that was in the old Constitution, and the statement which has been made to you that there was difficulty in negotiating bonds since the last Convention assembled and the Constitution was adopted arose in this way: The debt was funded under the provision that we have here, which existed prior to 1875, but when they attempted to issue new bonds in addition to funding the debt, they were confronted with the provision that no new debt could be created, and that is the reason Mr. Hornblower gave his opinion that the debt would not be binding upon the State. Not that there can be any objection raised to the authority of the Legislature to issue bonds to fund the present indebtedness of the State. The section provides further at the close that the section shall not be so construed as to prevent the issuance of bonds for the purpose of refunding the State's existing indebtedness." There is ample provision and when the gentleman from Montgomery was interrogated on that point he was compelled to admit that ample provision was made. Now, so far as issuing bonds to purchase these lands or to improve the Capitol building, according to his own argument, it is demonstrated that it is unnecessary, for by refunding the bonds, he says we will save $123,000, and he says the expenses are estimated at $97,000. Why, then, in view of that fact, issue bonds in addition to funding the present indebtedness of the State? Issue bonds with the admitted fact that by the funding of the debt more than is necessary will be placed in the treasury to enable you to improve your Capitol and purchase the grounds. What advantage is to be gained by this legislation? Isn't it strictly legislation to go on and provide for the improvement of the Capitol, for the purchase of property? Why not trust these things to the Legislature, where they properly belong, instead of bringing it in here as a part of the organic law of the State? Delegates to the Convention, so far as fixing by an ordinance, or inserting in here at a premium not greater than 4 per cent. it is an invitation to capitalists—

MR. OATES—That is 3 1-2 per cent.

MR. COLEMAN—The same objection prevails against it at 3 1-2 per cent. as at 4 per cent. If it is wrong at 4 per cent. it is wrong at 3 1-2 per cent. It might be 3 1-4 per cent. Can we not trust the Legislature and the Governor, who have been trusted always with the power of refunding the debts and negotiating the bonds of the State on the best terms possible? That is all that the report of the Tax Committee does. It leaves it with the Governor and the Legislature to issue bonds when they are needed, not bond the people of Alabama by an organic provision five or six years in advance of the time necessary to fund this debt. I believe if the delegates will closely consider Section 3, they will find every provision necessary for the adjustment of the State's indebtedness, and there is a provision there that the State shall

incur no new debt, and of course would not be authorized to issue any other bonds except in settlement of the debt which already prevails.

MR. ASHCRAFT—I would like to ask a question, it has been discussed by several, whether or not under the provision as proposed by the committee, the Legislature has the constitutional authority to make a purchase of the land adjoining the Capitol grounds? I would like very much for you to answer the proposition, there are several gentlemen would like to hear.

MR. COLEMAN—I have two answers to make to that. Under the general provision where the Legislature is not prohibited, it has ample power, but, Mr. President and gentlemen of the Convention, if such a provision as that is deemed necessary, let it be introduced in the proper place and not upon the report of the Committee on Taxation. An independent section authorizing the Legislature to purchase the land or the property, if deemed necessary, could be introduced by an independent separate section and I cannot see if the Legislature can appropriate money as was done under my friend's administration (Mr. Oates) for the improvement of the Capitol, why the Legislature has not the same power now that it had then.

MR. JONES (Wilcox)—Mr. President, there is no member upon the floor of this House for whom I have as much esteem as I have for the distinguished gentleman who has offered this amendment. Before I had reached by majority I met with him in the Virginia army. Together we followed the fortunes of the Southern army in Pennsylvania, in Maryland, and in Tennessee and afterwards in Virginia, and Mr. President, it needed manhood to go through what he did, and I never saw a finer specimen of manhood than was to be seen in him, in his youth. He went through those trying days, Mr. President, in a manner that won my admiration and respect, and I have held it for him ever since. I have favored him in every aspiration he has had, and when he desired to be President of this Convention, I wrote him certainly I should vote for him, and I would have done so, if I had been the only man on the floor of the House who voted for him for President of this Convention.

But, Mr. President, while that is true, I beg leave to differ with him. We all have our opinions about the measures that come before this House. It has been stated that men are independent in their thoughts on this floor. That is to be commended, and although I have respect for the gentleman's opinion, and although I have listened to him with great interest in the argument that he made, I have not changed my opinion one particle that this amendment should not be incorporated into the Constitution of the State.

What are we here for? Are we here to make another book like this? (Holding up the Code.) Do we want a Constitution as large as the civil code of Alabama? Are we to fix it so we will have one book with the Constitution of the State in it, another with the civil laws of the State and another book with the penal laws of the State? Leave to the Legislature of the State what they can do legitimately. That is what we ought to do. That is what we are here for. That is what the people of Alabama expect of us, Mr. President.

I went home last Saturday was a week ago, and on the train I heard some gentlemen of intelligence, and there are many of intelligence that are not in this body, discussing the Constitutional Convention, and they said this: "Why, those solons at Montgomery have missed it; they seem to think that they are the Legislature of the State. When will they get through? Why, they won't get through until the fall of the year." They did not know that I was a delegate, and Mr. President, I didn't tell them that I was a delegate.

I tell you that if I did not care anything about the matter, except from a selfish standpoint, I would not be advocating measures that the Legislature can take charge of. It is hot. This weather is oppressive. The Legislature will meet here in the Winter. We are nearly all of us prostrated with the work in committees. A year or so ago I was in New York, where there was a gentleman on the street car who said during one of those hot days, "why it is almost as hot in New York as it is in Hades," and he turned and saw a lady and apologized to her he said, "I did not know you were on the car, I beg your pardon." She said, "Sir, you owe me no apology, except you put in 'almost'; it is just as hot as Hades now in New York!"

Mr. President, from a selfish standpoint, even if I cared nothing about the expense to the State of Alabama, I would say let the Legislature do the work that they can do, and let us do the work that the people expect us to do.

Now, to take up this proposition, what are we asked to do? We are asked to pass an amendment, telling the Legislature what to do. Some New York attorney gave it as his opinion that the Constitution was not full enough on that. Now, Mr. President, take this section, and it says at the conclusion, controlling that which precedes it, "provided that this section shall not be so construed as to prevent the issuance of bonds for refunding the State's existing indebtedness." What else do you want?

MR. OATES—May I interrupt my friend?

MR. JONES—Yes, sir.

MR. OATES—That language referred to the process that was going on, and not completed, at the time that the Constitution of 1875 was made, the result of the Houston settlement.

MR. JONES—Yes, I understand that.

MR. OATES—Let me interrupt you a little more, please. It had gone on, and in my administration it had not been completed. Certain parties were holding back their bonds and demanding the interest. I drafted a statute of limitations and got the Legislature to pass it in 1894-5, which provided that any of these bonds which were not presented for exchange by the first day of July, 1896, should be forever barred, and that is the only way that was ever completed, to which the Constitution refers there. But in the opinion of Hornblower and others, the prior language having referred to a former question against the creation of any new debt, rendered it very hazardous, and they thought they would not advise the taking of new bonds, because it might be an increase of debts which were prohibited in the same section of the Constitution.

MR. JONES—Yes, but the latter part of that section controls all that goes before, and it is to be incorporated into this section of the Constitution.

Now, so far as the State Capitol is concerned, why cannot the Legislature improve the Capitol? All of us have State pride, and would like to see our State Capitol compare with any Capitol in this broad land, and if we had the means I would say do it. Now there is another thing if you notice in the old Constitution. You will see that the Governor is authorized to negotiate temporary loans, never to exceed $100,000. What does the Committee report here? The report of the Committee says not to exceed $300,000. There is a provision, an additional one, and it is not necessary that we should say anything to the Legislature in reference to purchasing this property for the State of Alabama.

Mr. President, while I merely give it as my opinion, we came here for a special purpose. There may be one man in this Convention of ordinary sense, and he can sit down in his room and offer amendments to articles that are brought in here, and keep this Convention in session for a month's time. Any man can do that where it is entirely unnecessary, and where the Legislature can do the work that we are attempting to do unnecessarily.

MR. deGRAFFENHEID—I move that the amendment of the gentleman from Montgomery be laid upon the table.

Upon a vote being taken, a division was called for, and by a vote of 76 ayes to 24 noes the motion to table carried.

MR. WATTS—I have an amendment.

The amendment was read as follows:

Amend Section 3 of Taxation Report by adding at the end of said section the words: Provided the General Assembly may increase the State debt not exceeding $200,000 for the improvement of the Capitol, and adding to its grounds.

MR. WATTS—I did not favor the amendment offered by my distinguished friend from Montgomery, because it involved two or three different propositions, the one as to the issue of bonds being clearly a matter within the discretion of the Legislature, and ought not to be incorporated into the Constitution. The other feature of this amendment in the shape in which it was offered, was perhaps open to the same objection, but I favor the purchase by the State of Alabama of the balance of the square upon which the Capitol stands, and I have offered this amendment to Section 3 for the purpose of enabling the Legislature to find the means, if necessary, to purchase the grounds and to improve this Capitol building, if in their discretion, after a consideration of the matter, they should deem it wise to do so. There can be no question about the fact, I take it, with Alabamians, that the building which represents their Capitol, and in which the business of the State is carried on, should at least be kept in repair, and should present a decent appearance to visitors and should be a credit to the State. I agree fully with my distinguished colleague from Montgomery that there should be additions to this building; that there should be repairs made to it, and to do that it may not be necessary to issue any bonds. To accomplish it, however, it may be necessary to issue bonds. This section as reported by the Committee on Taxation inhibits an increase of the State debt for any purpose, except the purposes stated in it, and, therefore, if the Legislature in its wisdom should ever determine to improve this Capitol, and there was not sufficient money in the State Treasury to do it, they would be unable to do it, and the Capitol building would be left without improvement for want of power on the part of the General Assembly to provide the means to carry out the improvement. I have been in many of the Capitols of the States of this American Union, and I have looked upon the Capitol buildings which those States have erected, and I believe, with the single exception of Rhode Island, there is not a single one of them that does not excel in beauty and in elegance the Capitol of the great State of Alabama. I believe, Mr. President, that it is the duty of the Legislature to acquire the balance of this square. I think that these houses to the south here should be removed. I think that that land should be gathered into the Capitol grounds and beautified, and made a part of those grounds. Whatever the ultimate object may be, to erect a Governor's mansion, or what other uses it should be put to, it at least should be owned by the State.

Some suggestion has been made, or hinted at, that this would simply aid the city of Montgomery to have beautiful grounds.

That sort of thought should not enter the minds of delegates when they cast they eyes back a few years and remember that the city of Montgomery, as a free gift, presented to the State of Alabama the northern side of these grounds without one dollar of compensation. Does it stand then in good taste to be saying that the purchase of the south side of these grounds to complete the whole, and make it a thing of beauty, should not be done because forsooth it may add some to the beauty of Montgomery. Alabamians should be proud of their Capital City. It is redolent with history. As my distinguished friend says, upon these grounds and in this city, a young nation was born. It is true it was short lived, but ever since that nation was born, the bravery and heroism of its soldiers have been the wonder of the world. Here, Mr. President, the first Confederate Congress was established. Here Mr. Davis was inaugurated President of the Confederate States, and upon these grounds to the north, the fair, the patriotic and the untiring women of Alabama have erected a magnificent monument which shall for all time bear testimony to the valor of those soldiers who fought for principle, for home, for country and for fireside. Shall we have less ambition, shall we have less pride in our Capitol City, and have less pride in our capitol grounds than our women? Another thing, you have been over your Capitol City since you have been here, and you see how well it is paved. You see what a magnificent system of sewerage we have. You see what water we have. You ought to encourage, and you ought to be proud of your Capital City. Why, gentlemen, it is the best paved, the cleanest and the best policed city in our beautiful Southland. I think this amendment should be adopted so that when the Legislature meets, whether it be next year, or four years from now, or two years, and they come to consider this question of beautifying the Capitol grounds, and improving this Capitol they should not be hampered or met with the cry of a depleted or an empty treasury.

Another part of this report, Mr. President, provides that the tax rate should be reduced from seventy-five to sixty-five cents on the hundred dollars. If that part of the report should be adopted, we will find that there will perhaps be no funds in the treasury for the improvement of the Capitol. Will we not then bind down the Legislature, by saying their hands shall be tied, and that they shall not have the power to provide for the improvement of this building? They may not exercise the power of issuing these two hundred thousand dollars of bonds, they may never have occasion to do so. Alabama may prosper in the future as she has prospered in the past. Her revenues may increase. Her treasury may be full, and they may be able to appropriate out of the treasury the funds necessary for the purposes intended, but if the time should come, Mr. President, when such is not the case, let us so fix this Constitution that the Legislature

shall have the power of appropriating or borrowing the money for the improvement of the State Capitol and its grounds.

MR. WEATHERLY—I do not wish to appear discourteous to the gentleman who has offered the amendment in what I am about to propose, nor do I intend to say that I lack sympathy for the cause which he advocates, but solely for the purpose of doing whatever I can to help to confine this convention to its real work, I move to lay the delegate's amendment on the table.

MR. WATTS—Upon that I call for the ayes and noes.

The Chair declared that the call was not sustained, and upon a vote being taken the motion to table prevailed.

MR. BROWNE—I move the previous question on the adoption of Section 3.

The main question was ordered, and upon a further vote being taken the Section was adopted.

The President resumed the Chair.

THE PRESIDENT—The Clerk will read the next Section.

Section 4 was read as follows:

Sec. 4. The General Assembly shall not have the power to levy, in any one year, a greater rate of taxation than sixty-five one-hundredths of 1 per centum on the value of the taxable property within this State.

MR. BROWNE—With reference to that Section I desire to say that the Committee on Taxation has made a very thorough and very careful investigation into the condition of the finances of the State. In the estimate that I presented before this Convention when the Article was first taken up, I think that I clearly showed that we could safely reduce the rate of taxation from 75 to 65 cents upon the $100, to take effect within the next fiscal year, and that we would then have a surplus of receipts over expenditures. I know that some gentlemen have criticised those figures, but let us see whether or not they can be justly criticised.

The levy for the next fiscal year has already been made by the Legislature. The expenditures for the next fiscal year are already fixed and cannot be increased or decreased. Then, all that is necessary to be done, is to see what amount of receipts we will have for the next fiscal year, basing the receipts upon the same property valuation that we had for the last fiscal year. Certainly no gentleman upon the floor of this Convention will for one moment contend that the tax valuation of property for this year will be less than it was last year. Taking the same valuation that we had for last year, adding to the receipts of next year the clean surplus of $59,000 of receipts for this fiscal year over disburse-

ments, then taking $147,000 of extraordinary appropriations for this fiscal year, which have been made and cannot be made for next year, adding to that $71,000 that was expended in the reduction of the deficit this year that will not and cannot be expended for next year and we have about the sum of $280,000, which will be the difference between the receipts and disbursements for the fiscal year ending October 1, 1902.

Take from that one mill, which nets the State $247,000, and any one that understands figures will readily see that this tax rate can be lowered for the next fiscal year.

I then went further in the statement and said we could safely estimate the increase of taxable values for the next fiscal year, over the last, at $8,000,000, the amount of the increase of this year over last. But gentlemen who oppose this reduction said it will not amount to that, and I wrote a letter to every Probate Judge in the State of Alabama and I asked him two questions: what was the taxable value of the property in your county for the last year, and what is the taxable value for this year? I have had replies from thirty-four Probate Judges, and they show an increase of $8,200,000, and we still have thirty-two Probate Judges to hear from. That will net the State, in addition to the surplus, forty odd thousand dollars; then the increase from license taxes estimated at $20,000, would make an increase of $60,000, even if we should reduce the tax.

Now another estimate in those figures of the other day, and some gentlemen don't like estimates, I estimated that the receipts of this fiscal year at the actual amount of the receipts received into the State Treasury as shown in the Auditor's Office, up to June 18. I then estimated the receipts from the 18th to September 30th, at the same ratio of increase as was the ratio of increase up to June 18th of last year, which gave me $10,000. Gentlemen said that would not do. I went into the Auditor's Office this morning and I asked him two questions: what were your receipts last year from June 18th, until and inclusive of June 27th, nine days, and I got the figures. What have they been this year up to the close of your office last night? I got the figures, and I had the Chief Clerk in the Auditor's Office to make the calculation, and I found $6,500 in excess of last year for nine days, and I only claimed $10,000 for the time between June 18th and September 30th.

MR. SAMFORD (Pike)—I would like to ask a question. I do not do it in a spirit of antagonism, but to hear you discuss it.

MR. BROWNE—I am glad to accommodate the gentleman.

MR. SAMFORD—We are on the eve of refunding the State debt. What is your idea about the reduction of the tax limit and its effect upon that proposition?

MR. BROWNE—I will state that the matter has been very carefully considered by the Committee, and that the Committee agree that it will not have any deliterious effect upon the refunding of the State debt.

Now, I think these figures clearly show that we could reduce this tax rate for the next year. The Committee does not so recommend, however. The last General Assembly has made a levy at seventy-five; that is at fifty-five for general purposes, and one extra mill for soldiers and one extra mill for educational purposes. Now that levy having been made, this provision to reduce is "the General Assembly shall not have the power to levy, after the ratification of this Constitution." We do not propose to interfere with the levy already made, so we calculate the receipts for the coming fiscal year, by taking the amount of the revenue for the last fiscal year, and adding to it the amount of tax derived at fifty-five for general purposes, upon the extra eight million valuation, although we have eight million two hundred thousand from thirty-two counties and it will be at least twelve millions, and we add to it an increase of only twenty thousand dollars from license taxes, when it will be over fifty in all probability; then we go over into next year with a surplus of fifty-nine thousand dollars, in addition to the cash balance in the treasury, over which there has eternally been so much dispute, when there ought never to have been any. One man will call it a surplus and another will say it is not a surplus. Lose sight of surplus altogether. When a man has got a hundred dollars in his pocket, with nothing against it, and wants to buy a pair of shoes, he does not sit down and figure whether or not that is a surplus. The State of Alabama on the first day of October had six hundred and twenty thousand dollars—it was more than that, but against part of it there were outstanding warrants—but it had in the treasury on the 1st of last October, six hundred and twenty thousand dollars, against which there were no outstanding warrants; but, there were chargable against that, bookkeeping liabilities of something over seven hundred thousand dollars. Those liabilities were not due. They were payable in October, November and December following. If the State had gone out of business on the first of October, and not collected its taxes for October, November and December, not only those liabilities would have had to have been paid out of that cash balance, but the nine million of bonds would have had to have been paid out of that pitiful six hundred and twenty thousand dollars, but those liabilities have since been paid, and we got in practically enough receipts from taxes and licenses in October and November and December to pay those liabilities as they fell due without touching the six hundred and twenty thousand, and instead of only six hundred and twenty we now have over eight hundred thousand dollars and all July interest paid.

Now that seven hundred thousand that was paid in October, November and December, that was charged against that balance in the treasury, is now charged against the receipts of this year, and at the end of this year, they will then go and charge October, November and December liabilities of the next fiscal year against this fiscal year, showing a charge against the receipts of this year of fourteen hundred thousand dollars when it only ought to be seven hundred thousand.

Be that as it may, on the first day of October, 1902—

The hour of adjournment having arrived, leaves of absence were granted Mr. Mulkey for Saturday and Monday, and Mr. Norwood for this afternoon and Saturday, and thereupon the Convention adjourned until 3 o'clock p. m.

AFTERNOON SESSION.

The Convention reconvened at 3 o'clock, p. m., and upon the call of the roll one hundred and nineteen delegates responded to their names.

Leaves of absence were granted as follows:

Mr. Freeman for Saturday, Monday and Tuesday; Mr. Haley for Saturday and Monday; Mr. Jones of Montgomery, for this afternoon; Mr. Pearce until Wednesday afternoon; Mr. Cunningham of Jefferson, for tomorrow; Mr. Graham (Talladega), Saturday, Monday and Tuesday; Mr. Foshee, for Saturday.

MR. BROWNE—When the Convention adjourned at noon, I had just started to show the condition of the treasury on the first day of October, 1902, or upon the last day of September, at the close of that fiscal year. We will then have in the treasury, an excess of receipts for the present fiscal year over disbursements of fifty-nine thousand dollars; we will have the amount of two hundred and eighteen thousand dollars, which is the amount of extraordinary appropriations of this year, that will not be expended out of the receipts next year; we will have, in addition, an increase from the increase in taxable values of at least fifty thousand dollars; we will have an increase of at least twenty thousand dollars from license taxes, making three hundred and forty-seven thousand dollars excess of receipts over disbursements. That will be an actual surplus and a bookkeeping surplus as well, against which there will be chargable no liabilities whatever.

MR. SAMFORD (Pike)—Will the gentleman pardon me?

That two hundred and eighteen thousand dollars that you speak of, what fund is that?

MR. BROWNE—Seventy-one thousand dollars deficit paid off by the treasury, this year, that will not be to pay next year;

thirty-two thousand dollars extra appropriation for the girls' school building; forty thousand dollars money paid out of the treasury, refunded, illegal license tax, fifty thousand dollars for the expenses of this Constitutional Convention, twenty-five thousand dollars, one half of the expense of a session of the legislature, all of that being chargable to this year. The expenses of a session of the legislature are charged against one year, the legislature meeting in November, and the whole expense of the session is chargable against one year. Those figures foot up two hundred and eighteen thousand dollars.

Now they will have a session of the legislature next year, but only twenty-five thousand dollars of it will be chargable against the receipts for next year; really, none of it will be, because it will go into the next succeeding fiscal year. That gives you three hundred and forty-seven thousand dollars, and there is no amount of figuring that can get around that actual surplus, neither can it be gotten around that it is a bookkeeping surplus. You cannot keep books, so as to charge anything against that three hundred and forty-seven thousand dollars. In addition there is, I won't call it a surplus, some people object to that, but in addition to that there will be a cash balance in the treasury of some six hundred and fifty, to six hundred and seventy-five thousand dollars.

MR. OATES—When?

MR. BROWNE—On the first day of October, 1902. We are getting down to the time that the Committee proposes this tax reduction. That actual cash balance was six hundred and twenty thousand dollars on the first day of this fiscal year. Now on the first day of the next fiscal year, we will have that six hundred and seventy-five thousand dollars, with nothing chargable against it—I mean nothing payable out of it. There will be liabilities chargable against it, but they will be payable in the future, and if the State continues in business, that money will not be touched. There will be in the treasury of the State of Alabama on the first day of October, 1902, at least $1,047,000, of which three hundred and forty-seven thousand dollars will be an actual surplus, and to all intents and purposes the other seven hundred thousand is a surplus. It is a cash balance. If the State goes on in business, it will collect during next October, November and December a great deal more than is sufficient to pay the liabilities that will be on the books, chargeable against that cash balance.

Then it is proposed to allow the next General Assembly to levy only a six and one-half mill rate, one mill of which is to be for the public schools as now, one mill for the soldiers, and four and a half for general purposes. Now the lessened receipts, if the taxable values of property remains as it is now, would only be $247,000, but the taxable values we see have increased this

year over last year ten to twelve millions of dollars, so the lessened net receipts on account of the one mill would be in the neighborhood of $260,000. It, therefore, appears that the State of Alabama can easily, in the first place go to this reduction of one mill within the next fiscal year. It will have a real surplus of about $50,000 then, but at the end of the next fiscal year, there will be a real surplus of about $347,000, and you cannot figure it any lower and in addition to that the cash balance.

Now we have not yet taken into consideration that it is agreed all around that the bonded indebtedness of the State of Alabama can be refunded at a saving of not less than $120,000 a year. There is no doubt upon that question. There are gentlemen upon this floor who know almost with an absolute certainty where Alabama's bonded indebtedness can now be refunded at less than three and one-half per cent. So we might with safety——

MR. GRAHAM (Talladega)—Isn't that estimate that it can be placed at 3 1-2 per cent. based largely upon the fact we now have a tax rate of seventy-five and not on the prospect of a reduction?

MR. BROWNE—No sir, it is not; it is simply based upon good sound business principles. There is not a dealer in bonds in the United States who would not be absolutely satisfied with these figures, and willing to take these bonds at the lowest possible rate. Mr. President, I have just had a little experience in assisting to float some bonds for the city of Talladega, and we got the bonds of that city floated, though it is true we had to pay a higher rate of interest, but the city had defaulted for seven years upon its interest and only paid up one-half of the interest, and if we had had any such showing as this, that little town could have floated her bonds at 3 1-2. Bond holders do not require that heavy rates of taxation be assessed against the people before they will take the bonds. All that is necessary is to show them that there are sufficient assets to pay the interest upon the bonded indebtedness. How much money pray, will it take to pay the interest at 3 1-4 or 3 1-2 per cent., on $9,000,000? A little over $300,000, and this year the State of Alabama collects in taxes and licenses over $2,800,000. Now I would like to see the bondholder that would be afraid to risk the State of Alabama paying out of that the sum of $300,000. There is $120,000 interest that can be saved in refunding that bonded indebtedness that we do not take into consideration at all.

Mr. President, gentlemen who oppose this reduction, probably have not thought or remembered, or probably never knew, that we are building in the State of Alabama today cotton factories at the rate of $9,000,000 a year. Those cotton factories, as a rule, are small factories, with a capital of from $100,000 to $150,000, and I have not known any of them to run three years without

doubling the capital and doubling the capacity. If the rate of building cotton factories keeps up as it has since the passage of the law of 1897, which exempted them from taxation for ten years, until that exemption expires in 1907, we will, in 1907, be collecting taxes at a low estimate upon $75,000,000 invested in cotton factories. But gentlemen may say that we have no right to expect that it will be kept up. Possibly not. If they do not keep it up, in 1907 we will be collecting taxes upon at least $40,000,000 of cotton factories without building any more.

It will probably be urged by those who oppose this reduction, that we cannot count on any increased values in the future. When this report was made, the argument was made against it that we had no right to expect any increase this year over last. I thought then that any man in Alabama who did not know that there would be an increase of taxable values this year over last, certainly had his eyes shut all the while. The reports of the Probate Judges show that the increase this year will be at least $12,000,000.

Now, panics have always come in the past, in eras of ten years. Sometimes they have come as close together as eight years, but never any closer. Four years ago was the period of the greatest depression of property values in Alabama, since the panic, or since the boom. There were only $241,000,000 of taxable values in Alabama four years ago. They have, in four years, steadily increased, until last year they were $260,000,000, and they will be $278,000,000 this year. Now gentlemen who are so much afraid that the credit of the State of Alabama will be hurt, must take this into consideration that we have got at least four years more of prosperity during which time——

MR. OATES — Does the gentleman state that the taxable values in this year are $278,000,000.

MR. BROWNE—They will be this year.

MR. OATES—That is estimated?

MR. BROWNE—It is estimated. I have the figures since we adjourned at dinner from two other counties.

MR. OATES—That is a larger amount of taxable property than has ever been shown.

MR. BROWN—No, sir; we have not got back to the taxable value before the last panic.

MR. OATES—In 1891?

MR. BROWNE—Just about that. It was about $275,000,000 or $276,000,000.

MR. OATES—But it will make it larger than it ever was, if it is $278,000,000.

MR. BROWNE—Well, practically the same; may be one or two million over, where we are only in the middle of a period of prosperity. We will have four such years more, if we presume we will have a panic in four years; but it does not make any difference when you do not count on one dollar's increase from this time one, because gentlemen can get up and say, in answer to that, that you believe that it will increase, and we believe that it will not. You do not need any increase in the taxable values to go on with a 65-cent rate, after the increase of this year. Certainly, gentlemen will not argue that we are going to have a panic next year. If they do, in answer to that I want to say: did you ever know a bank to keep all of its capital and all of its deposits on hand all the time looking for a panic, that is certain to come sometime in the future? Must the State of Alabama collect taxes for which it has no legitimate use from the people, and hoard up the surplus in the treasury looking forward to a day when a panic will come upon us? With that three hundred and forty-seven thousand dollars of absolute surplus in 1902, and six hundred and seventy-five to seven hundred thousand dollars actual cash balance in the treasury, with the power in the Governor to borrow three hundred thousand dollars, we would be in a condition to stand a worse panic than we have ever known.

MR. OATES—Will the delegate allow another interruption?

MR. BROWN—Yes.

MR. OATES—Is it not without exception that in any and all governments we ever knew anything about, when there is a surplus in the treasury it leads to very extravagant appropriations?

MR. BROWNE—I thank the gentleman for the suggestion. They do not wait, Mr. President, until you have got a surplus; they simply wait until you have got a possible surplus in the future, and then members flock down to the General Assembly, each one with a pet scheme to get an appropriation for some pet object. And behind all of the opposition to the reduction of this rate of taxation is self-interest, not of individual members, but of particular objects. I do not know, it may become necessary before the close of this discussion to state where some of the opposition comes from, but I shall wait until it develops.

MR. ROBINSON—Was the report of this Committee on this section unanimous?

MR. BROWNE—Yes, sir; unanimous.

Now, I will state another thing, Mr. President, this is no pet scheme of mine, and as far as I know it is not the pet scheme of any member of the Committee. We had several resolutions referred to the Committee by members of this Convention, calling our attention to the pledge made by the Democratic party, in

the platform, "be it resolved, that this Convention will lower the rate of State taxation if possible," and with two or three such resolutions before the Committee, and with several ordinances lowering the rate of taxation, it was our duty, Mr. President, to examine into that question carefully and thoroughly, and to report upon it accordingly, which we did.

MR. FOSTER—Will the gentleman allow a question?

MR. BROWNE—Certainly.

MR. FOSTER—The assessed value of the property in the State now is two hundred and sixty-six millions?

MR. BROWNE—Yes, sir.

MR. FOSTER — If there is a seventeen million increase, won't it make it two hundred and eighty-three million?

MR. BROWNE—Yes, but I do not count on its being seventeen. We have only heard from thirty-six counties altogether—

MR. FOSTER — I will ask the gentleman if the two hundred and sixty-six million was not for the year 1900, and the present year's assessment is not about eight million over that?

MR. BROWNE—It will be at least twelve million over that of this year, upon which we collect taxes this fall.

MR. FOSTER—Will the increase this year be about twelve million also?

MR. BROWNE—That is the increase for this year.

MR. FOSTER—I mean the increase next October.

MR. BROWNE—We do not know what that will be.

MR. FOSTER—I thought that was it.

MR. BROWNE—No, this increase I have here is an actual increase this year over last, upon which increased assessment we collect taxes this fall. It is $8,445,000 from thirty-six counties, leaving thirty counties to be heard from.

I have received in reply to these letters I have written to the probate judges, asking simply two questions in several instances communications from them urging that this Constitutional Convention enact some measure that would tend to cause some law to be enacted looking to the equalization of taxation over the State. I introduced an amendment to the report of the Committee on Executive Department a few days ago, providing that certain State officers should be a Board of Equalization, which was very promptly laid upon the table. Some of the probate judges write me that in their counties property is not assessed at

over fifty cents of its actual value. Now the point that I wish to make right there is this: as you lower the rate of taxation, you increase the taxable value of the property, and as you increase the taxable value of property you lower the rate.

Now I have examined the records with regard to the rate of taxes collected by a great many of the cities of the United States. We have heard different towns and localities in Alabama say look what a grand city Chicago is, and it never could have been such a magnificant city, if they had not levied and collected a rate of taxation of $5.50 upon every hundred dollars' worth of property. Go and look at the record, and you will see that it is the universal rule in Chicago for the Board of Assessors to assess the property at 10 per cent. of its value. Now when you figure it on that basis, Chicago has a rate of 55 cents.

Illinois and Indiana levy a larger rate of taxation than Alabama, but it is officially known and stated that the assessable value of the real and personal property that is given in for taxes in both of those States at only from 20 to 25 per cent. of its real value. By looking at the figures in Alabama you will see that when taxes are raised, the values do not go up quite so rapidly. There is no doubt that the reduction of the rate from 75 to 65 cents will of itself increase the value sufficiently to make up for the difference.

Now, Mr. President, in conclusion, I desire to say that as far as I am concerned, I do not desire this reduction of taxation for the benefit of the poor farmer alone, of whom we have heard so much upon the floor of this Convention. I desire it mainly in the interest of the welfare and industrial development of the State of Alabama. Georgia collects a State tax of 55 cents; Tennessee collects 50; Louisiana limits it to 60 in her Constitution. Industries and capital will not come to Alabama and locate where you have a fixed lien on their property of 75 cents upon the $100, when they can go to States which have equal advantages, and where the lien is much less. Georgia, it is true, has no constitutional limit upon the rate of taxation, but she has now a rate of a little over 55, less than 56, for all purposes, and that is considered in that State an exorbitant rate, and is the highest rate that they have had for several years. It is a well known fact that the rate of taxation in Chattanooga was the cause of building Roseville in Georgia. Hundreds of thousands of dollars came to Chattanooga for investment in manufacturing industries but the rate of taxation was high and they went a mile and a half, into Georgia line, and put down hundreds of thousands of dollars of property.

MR. HOWZE—I desire to offer an amendment.

The amendment was read as follows:

Amend Section 4 by striking out the words "sixty-five," and inserting in lieu thereof the words "seventy-five," and adding at

the end of the section the following: "for two years succeeding the adoption of the Constitution, after which no greater rate than sixty-five one-hundredths of one per centum shall be levied."

MR. HOWZE—In offering the amendment I feel somewhat embarrassed for two reasons. In the first place, I dislike very much to appear antagonistic to this able Committee on Taxation, which I am satisfied have thoroughly investigated the subject; in the second place, I do not want to appear as if I am antagonistic to a reduction of the taxes, because I am not; but it seems to me, Mr. President, and gentlemen, that there is some little doubt on the statement by the chairman of this committee, as to whether or not it will be wise for us to make this reduction at once. It seems to me that the margin which the gentleman has presented in the figures which he has given, is rather too slim to justify us right now in changing the rate of taxation. It seems it would be a much wiser plan to wait at least two years, until we can get prepared for this change in our rate of taxation.

If this surplus accumulates, as the distinguished chairman of this committee has predicted, it would be wise to reduce the rate of taxation, and I feel we can trust the Legislature to make such a reduction, but it does seem to me that we are running a risk, and too much of a risk, to reduce the rate of taxation at once. There are extraordinary payments that will arise every year in our history. Instances will occur where we will be called upon to make extraordinary payments, and there is no certainty that this surplus will accumulate as our friend has told us in his remarks this evening that it will. I do believe that the tax rate ought to be reduced, and I think it is something we ought all to anxiously hope for and demand, but it seems to me that we should not venture to hurriedly upset our tax plan, if we are wise men, as we will by this amendment to our Constitution. I think that after two years, when we can get prepared for this reduction, that it ought to be made, and I insist that my amendment covers the exigencies of the case, and will prepare our State for this important event.

MR. BAREFIELD—Will the gentleman allow one question?

MR. HOWZE—Certainly.

MR. BAREFIELD—Does the gentleman think it will be better to insert "seventy-five cents" and then, if we have a surplus in the treasury, allow the Legislature to reduce it?

MR. HOWZE—No, I do not think that would be best. I think it would have a better influence, as the chairman of the committee has stated, for us to put it upon record that we propose that all taxation shall be limited by our fundamental law. I think that the Legislature might probably make a reduction of the taxation, but it seems to me it would be wiser and best to put it

in the fundamental law, and publish it to the world that we intend that our taxation shall be limited, and, for that reason, I have suggested this amendment.

MR. BROWNE—Will the gentleman allow a question?

MR. HOWZE—Yes, sir.

MR. BROWNE—Upon what information does the gentleman predicate the suggestion he has offered that it would be unwise to decrease the rate of taxation beginning with October, 1902?

MR. HOWZE—Upon your statement almost entirely.

MR. COLEMAN (Greene)—If your conclusion is that the figures are too slim, the committee is anxious for you to point out the difficulty. Don't say that the figures are too slim, and let nobody know to what you refer, but give us the figures.

MR. HOWZE—From what I have heard of the figures given by the chairman of the committee, this surplus is made upon a basis depending upon the payment of extraordinary expenses that we have made, such as the holding of this Convention and other things, the meeting of the Legislature and the refunding of a license tax. All of these things he has counted in, in order to make up this surplus. Now these extraordinary expenses may come on in the next year or two. We do not know whether they will or not, and I say a surplus of one hundred and fifty or two hundred thousand dollars is not too large a surplus for us to look to in making this reduction. If the surplus accumulates within two years, there is nothing to prevent the next session of the Legislature from reducing the rate of taxation, but it does seem to me that it would not be wise for this Convention to abruptly reduce it as I understand it would go into effect almost immediately.

MR. BROWNE—After the 1st of October, 1902.

MR. HOWZE—You have not got that in the Section.

MR. BROWNE—The levy for the next fiscal year has already been made. This can only apply to levies to be made after that.

MR. HOWZE—In 1902?

MR. BROWNE—The levy under the new Constitution would not be made until December, 1902, and consequently the rate would not go into effect until 1903.

MR. HOWZE—I think that is too short a time for us to take this leap.

MR. GRAHAM (Talladega)—I wish to offer an amendment to the amendment.

The Clerk read the amendment as follows: Amend the amendment by striking out all of it except the words "seventy-five cents."

THE PRESIDENT—The question is on the amendment offered by the gentleman from Talladega to the amendment offered by the gentleman from Jefferson to Section 4 as reported by the Committee. I now recognize the gentleman from Talladega.

MR. GRAHAM—Mr. President, I offered this amendment, not for the purpose of holding on to the burden of taxation or increasing the burden of taxation in Alabama, but out of abundance of caution. I must confess frankly that I have not the financial optimism of the Committee. No doubt the majority of that Committee are better versed in finances than myself, both from their public experience and their private holdings. At the same time I want to say that no member of that Committee appreciates more the duties of a delegate in this Convention with reference to the tax-payers of this State than I do, and I want to say at the same time that no member of that Committee appreciates the credit and standing of the State of Alabama in the financial world more than I do. They talk about increase in valuation. I refer you to page 21 of the last report of the Auditor. In the year 1890 which was scarcely eleven years ago, the taxable values of this State were $259,000,000 in round numbers. In 1891 they were $275,000,000 in round numbers, the highest tide that we have ever reached. In 1892 they were $260,000,000, $15,000,000 decrease in one year. The next year they went down nearly $1,000,000. In 1895 they dropped to $243,000,000, and in 1895, scarcely six years ago they were $241,000,000; they commenced to go up and in 1900 they had reached $260,000,000, upon the estimate of the Chairman of the Committee we will get a little above $275,000,000 for the present year, and we get back to where we were in 1891. Where is the man of financial ken in this body that can undertake to tell us that in 1905 we will not find ourselves in the attitude that we were in 1895, drop back to $241,000,000. Then what are you going to do with the credit of the State of Alabama with a limitation of 6 1-2 mills for taxing power. I make this argument upon the presumption that the State of Alabama is going to maintain its faith with the people in the appropriation for schools and for the Confederate soldiers.

MR. ROBINSON (Chambers)—I will ask the gentleman if he knows what the tax rate was in 1895?

MR. GRAHAM—I think one-half mill to the soldiers at that time we have a mill now.

MR. ROBINSON—What was the tax rate?

MR. GRAHAM—Five and one-half mills.

MR. OATES — I was going to say that at the session of 1894-5 it was increased from five to five and a half mills.

MR. GRAHAM—Mind you, only one-half mill levied for the soldiers, and at the present time we have one mill for them.

MR. BROWNE—Does the gentleman not know that in those days they did not collect the amount of corporation taxes that are now collected?

MR. GRAHAM—Certainly, I know that.

MR. BROWNE—Don't the gentlemen know that large valuation of $275,000,000 was made up largely out of inflated values of boom town property which collapsed about that time, and that the shrinkage in values immediately following that was on account mainly of shrinkage in boom town property?

MR. GRAHAM—I understand that and appreciate it fully, but I care not whether it was levied on boomed town property, it was a tax and it was money when it was collected—boom or no boom. I was going on to say that we now have an obligation with the Confederate soldiers of this State for one mill tax, which is one-half mill above that of 1895, and we have a contract appropriation with the citizens of this State for the support of the public schools of a one-mill tax that we did not have at that time. I am making this argument, as I say, out of abundance of caution, and not with a view of keeping up taxes in the State of Alabama. Suppose we do have these excellent values that they speak of? Can we not trust the Legislature with the tax rate? Did we not trust them when they put it at five and one-half mills, and when they put it at four mills, when they could have raised it to seven and a half mills? Isn't it a fact, gentlemen, that every man in this room who becomes a candidate for the Legislature usually incorporates in the first plank of his platform a reduction of taxes if the finances of the State will permit it. Do you suppose the character of the candidates for the Legislature is going to change? I think it is impossible for the leopard to change his spots, and it will be impossible for the politician to change his platform-reduction of taxes. The distinguished gentleman who comes from my county, and the chairman of this committee, said it was not the province of the Constitutional Convention to levy taxes, but to fix the limit.

MR. BROWNE—When did I say that?

MR. GRAHAM—And we are not today levying a tax by my amendment of 75 cents, but we are simply fixing the limit for the protection of the credit and the good name of the State of Alabama, and leaving it to the patriotism and the business sense of future Legislatures to levy a tax under that constitutional limit of 75 cents. When this act passed calling this Constitutional

Convention, there was no guaranty of a decrease in the limitation of tax rates we simply promised that we would not disturb the present rate of taxation. It is true that the Democratic party came on and said if it was possible, we would make a reduction, but do the figures of the Auditor for the year 1900, and for years past say that we can afford to do it? I asked the gentleman a while ago the question in regard to the renewal of the State's debt, bonds at 3 1-2 per cent, if that estimate was not largely upon the fact that the State of Alabama had a maximum rate of 75 cents. He differs with me in his answer to that question. It is not worth while to argue to a man for a moment that when a person undertakes to handle bonds that he is going to investigate not only the maximum tax rate, but he is going to investigate the valuations of the State or municipality for years past, and when he investigates the fluctuations of Alabama valuations, whether boom or not, he is going to fix his estimate on the average he strikes of the years he examines. Now I cannot undertake to follow the intricacies of those figures, but I refer you to page 15 of the Auditor's report, of his estimate for the year ending September 30th, 1901, and let us see how it tallies with the estimate of this Committee. On page 15 he makes the estimated total for receipts $2,547,500 for the year 1901.

MR. BROWNE—Will the gentleman allow me to interrupt him a moment.

MR. GRAHAM—Certainly.

MR. BROWNE—The estimate was of the receipts and disbursements for this fiscal year, and are identical to a fractional part of a cent with the estimate made by our Committee—with Judge Cook of the Auditor's office. The figures you have before you—if the gentleman had taken the trouble to inquire in the Auditor's office, he would have found that estimates were made a year ago, and that the receipts were $300,000 more than the estimate, and the disbursement $240,000.

MR. GRAHAM—I will answer in a moment. I am quoting from the Auditor's report made a year ago, and the receipts are $2,547,500, and the disbursements $2,526,970, showing only a surplus of $21,000, in round numbers, and that does not include what the State of Alabama had to pay back to the University on account of the land sale which did not go into effect—$56,000 is the sum—

MR. SAMFORD—Does it include what was to be paid back?

MR. GRAHAM—Does not include any extraordinary appropriation made by the last legislature. As to the difference of the gentleman's estimate and the present, I say it in the hearing of men who were in the last legislature, and of men who have served Alabama in many legislatures, that we have today upon our sta-

tute books the most drastic revenue law ever framed in Alabama. You cannot undertake to make estimates for future years upon the income or the estimated income which this revenue act will bring in framed by the last legislature. Shall we give the Governor of Alabama—the then acting Governor and the present Governor—any credit for financial sense and for the investigation of figures when we read his able and well-considered message to the legislature of Alabama, which said in substance: Gentlemen, you have reached the limit, you must make no more appropriations. Can we not trust our lamented Governor whom, as soon as he was able to assume the duties to which the unanimous voice of the people had called him, in his very first message to the legislature said in substance: Gentlemen, you must call a halt, you have reached the limit and you must protect the credit and the good name of Alabama, you cannot do it if you make any more appropriations. Now I attach some weight to these messages of these two Governors. I attach some weight to the opinion of such men as Richard Clarke of Mobile, who made a speech upon this very floor and told the legislature of Alabama that they had reached the limit and that they must protect the good name of the State. I ask you, gentlemen, why did a bill which passed this House appropriating $100,000 to the Confederate soldiers of Alabama, why did that bill die in the Senate? Was it because men in that body did not esteem and revere the patriotism and the memories of the men of 1860 and 1865? No, gentlemen, it was not for that because Alabama does love her soldiers, dead and those alive, they refused to do it simply because the business sense and wisdom of the State said that the Treasury would not bear the appropriation at the present rate of taxation. Now, gentlemen, I did not expect to make this argument. I did not want to do it because you well know that when the question of the reduction of taxes is suggested to some people they are willing to reduce without reference to the effect that it may have upon the State or upon the credit of the municipality whose rate is to be reduced. I said in the outset that I appreciated the burdens of the people, and of the tax payers and I would be the first man if this were to fix a rate to it could not be changed or reduced, I would be the first man to come up and say that I would stand by it if it had to be the fixed rate. But when you come to fix a limitation, and leave it to future legislators to fix the rate, I am, out of abundance of caution, in favor of leaving it to the Legislature. Was there any demand, gentlemen, when this question of calling the Constitutional Convention was up, that the tax limitation should be reduced. It never was heard of until the Democratic Convention and it was not heard of in the canvass, no man urged his election here that he might reduce the taxes, on the contrary the only pledge that I was asked to make any of my fellow citizens was, that I would not vote to raise the limit either of State, county

or city, and I am here to abide that pledge, and when I do abide by it, I have kept faith with every constituent I have and with the sovereign people of the State of Alabama.

MR. REESE—May I ask the gentleman a question?

THE PRESIDENT—Will the gentleman permit an interruption?

MR. GRAHAM—Certainly.

MR. REESE — Isn't it a fact that the tax valuations have doubled since the rate was provided, and is it a fact that the legitimate expense of government have doubled in the same time?

MR. GRAHAM—I do not understand the gentleman.

MR. REESE—Isn't it a fact that the tax valuation in 1900 were nearly double the tax valuations at the time of fixing this rate in 1875, and is it a fact that the legitimate expenses of State government have doubled in the same time—in twenty years?

MR. GRAHAM—I think so, sir. I see here from a table which I have before me, from 1876 down to 1900 that the tax valuations have nearly doubled and it seems that while we had a rate of four mills at one time, that we have gone back to seven and a half mills, and we are spending it all. Now then, gentlemen, if we can do this it is all right but out of abundance of caution——

MR. OATES—If we are spending it all where are the $100,000 going to come from the gentleman assured us would be on hand to buy the additional ground and improvements for the Capital?

MR. GRAHAM—I am trying to get this Convention to answer that question. I stated at the beginning I did not know much about figuring these statistics, but I have read, gentlemen, within the past four years, a great deal in regard to a surplus and a deficit, I have never known whether there was one or the other, and I would not reflect upon any one in that matter, but it does seem to me that the very first discovery that Governor Jelks and Governor Samford made and revealed about the Teasury was, that there was no surplus for them, and it was necessary for the Legislature to call a halt. There was no abuse of the taxing powers or appropriations during the administration of Governor Johnston that can be severely criticised.

MR. HARRISON — Do you believe that the influences brought to bear on the last Legislature to pass that $100,000, that if it had not been for the 7 1-2 cent limitation that they would have voted it anyhow?

MR. GRAHAM—I think they would, there is no doubt about it. I said a while ago that the men of Alabama appreciate the

services of the men of 1861 and 1865 and it was only their business sense that said they must not go any further.

MR. HARRISON — Do you not believe that 55 cents is enough for the people of Alabama to pay?

MR. GRAHAM—I will answer that question with the condition it is enough for the people of Alabama to pay if they believe it right to take away the present one mill for Confederate soldiers and one mill for the public schools.

MR. BROWNE — Will the gentleman allow me to ask a question?

THE PRESIDENT—Will the gentleman permit an interruption?

MR. GRAHAM—Certainly.

MR. BROWNE—Has the gentleman examined into the figures in this matter sufficiently to say that in his opinion the rate cannot be reduced to 65 cents without taking away one mill?

MR. GRAHAM—I will say most emphatically from the report of the Auditor of 1900——

MR. BROWNE—Have you gone to the Auditor's office and had that report corrected to show what the actual receipts were and that they were $300,000 over this estimate?

MR. GRAHAM—I have not, but I have gone to the State Treasurer who said if you reduce this to 6 1-2 mills either the soldiers will lose one mill or the public schools of the State will lose one mill, and I believe from his experience in that office he knows something of the finances of the State of Alabama.

MR. BROWNE—Will the gentleman allow me to remark right there. Judge Cook has been the Chief Clerk for twelve years—without going into the matter as deeply as I have—he examined it before the committee, spent an hour and a half before the committee, and gave his opinion that they could safely lower the rate to 6 1-2 mills and not touch the one mill for the soldiers or for the schools, nor touch the $550,000.

MR. GRAHAM—One question. Did not Judge Cook make this very table for 1900?

MR. BROWNE—That was an estimate for the future, and the Auditor's office will tell you that they are always conservative and make them less than they really are.

MR. GRAHAM—I am pleading for conservatism. I appreciate the conservatism of this estimate I have here more than the conservatism of the estimate which has been read by the committee.

MR. deGRAFFENREID—In the estimate Mr. Browne refers to, there was $75,000 estimated to be collected from the tax on guano?

MR. GRAHAM—Yes.

MR. deGRAFFENREID — And $20,000 from the sale of school lands?

MR. GRAHAM—Yes, we have every possible estimate in the world in that including the drastic revenue law made for the express purpose of meeting a deficit. The Chairman of the committee who made the report informs me that they tax things that had never been taxed before and increased the taxes on other things that had never been increased before. I refer to Mr. Whitson of Talladega, and that this revenue was made for the express purpose of forestalling a deficit, and how we can find these figures that go into fairy lands within less than nine months after the Legislature has adjourned. I cannot understand, unless under the theory I expressed a while ago, the financial optimism that has seized me. I tell you that the people of Alabama would better appreciate that you leave the taxes at seventy-five cents and thus assure the maintenance of the credit of Alabama rather than they would if you were to pitch at their feet the morsel of sixty-five cents and discredit the credit of the State within less than ten years or before we can call another Constitutional Convention.

MR. KIRK—Will the gentleman allow me to ask a question?

MR. GRAHAM—Certainly.

MR. KIRK—Have you examined the figures and the statement made by the Chairman of the Taxation Committee?

MR. GRAHAM—No sir, not very closely.

MR. KIRK—Can you show this Convention that that statement is incorrect?

MR. GRAHAM—No sir, I cannot, and I say that the committee cannot show that it is correct until the time has expired for which they made the estimate.

MR. KIRK—What do you understand will be the surplus in the Treasury if it be correct?

MR. GRAHAM—I don't know what they claim.

MR. KIRK—What is it, Mr. Browne?

MR. BROWNE—At the end of this fiscal year, $659,000—the Auditor will not dispute it, and nobody will dispute it if he knows anything about figures.

MR. GRAHAM—What will be the liabilities?

MR. BROWNE—In round figures, about that much, bookkeepers' figures, and the receipts for October, November and December will be more than sufficient to pay them, and they won't be due until then.

MR. GRAHAM—Don't the liabilities begin at once in its interest on the debt and amounts due monthly and quarterly?

MR. BROWNE—They are bookkeeping liabilities, but not payable until October, November and December, and the tax receipts will largely more than pay them.

MR. GRAHAM—They are estimated?

MR. BROWNE—No; figures.

MR. GRAHAM—How are they actual when you are dealing with the future?

MR. BROWNE—We are not going on estimates alone. Go into the Auditor's office and you will find for October, November and December every dollar of this year's receipts; there are only $50,000 or $60,000, to come in for this fiscal year.

MR. GRAHAM—I would like to know if any of the tax assessments for this year have reached the Auditor's office?

MR. BROWN—They are not, but I do not suppose the gentleman doubts the statement I made a while ago that I had received information from thirty-four Judges of Probate showing an increase in value of $12,000,000?

MR. GRAHAM—Not in the least. I simply asked the question if the tax assessment for the present year had gotten to the Auditor's office.

MR. BROWNE—I will state that the Auditor's chief clerk told me this morning that several of the Probate Judges had sent the estimate in, but that it was not properly done, as they should have kept the estimate until the Commissioners' Courts met in July, and called my attention to the fact that there would probably be a large increase when they met to determine that matter in July.

MR. GRAHAM—Now, in reply to these questions, I have only to say this, and I want my position understood, that it is not a criticism upon the action of this committee. I think it is commendable on their part to want to reduce the tax limit, and I join with them in it, but it is merely a question of caution, and in reply to all the question asked me, I put it to the committee, are you not willing to risk the patriotism and integrity of the Legislature to reduce the rate when they find the estimate you have made to be correct?

MR. KIRK—There is one other question I desire to ask.

MR. GRAHAM—Certainly.

MR. KIRK—What amount of surplus do you think we ought to provide for accumulating in the Treasury every year to put ourselves on the conservative idea that you suggest?

MR. GRAHAM—I cannot say just what amount that should be, but I think it at least ought to be enough to meet fluctuations in value like we had from 1890 to 1895, and then back at the present time.

MR. KIRK—Were the assessments of last year and year before made upon boom valuations?

MR. GRAHAM—They were made upon a rising tide of values in Alabama, I am glad to say, and I believe we will reach high tide again next year in the natural course of financial matter, and it is the history of every State and every country that we have every ten or twelve years a period of depression, and I am only anticipating this again. I wish that this committee, in making their estimate, could, with their financial ken, assure us that this depression would not come back upon the people of Alabama within the next ten years. This Constitution, if we make it, and it is ratified, will stand for at least twenty-five years, and I do trust and hope that its conservatism not only on the franchise but on taxation, will be of such a character that it may stand for fifty years, and, gentlemen, I do not believe that 75 cents will be any too much to put in as a conservative maximum limitation. I will vote with the gentleman as readily as anybody should I become a member of the Legislature, for the reduction whenever the surplus appears. I ask you to guard what the State has done in the past and see to it that we take no backward step in our assistance to the Confederate soldiers, that their one mill shall stand there; that we take no backward step in educational matters, but that the one mill shall stand there, and with the $550,000 appropriation from the general fund, when you take those out bring it down to four and a half mills that the State must subsist on, and it has never been below four and a half mills but at one period, and when the distinguished ex-Governor was relating the trials that came upon him in the office of Chief Executive. I put in comparison with it that he suffered more than that on account of the embarrassment to the credit of the State and the State failing to meet its obligations, and he could not borrow more than $100,000. I can remember when the school teachers of the State went unpaid for months at a time when we had no money and then the rate was four mills, and under this plan if you keep faith with the Confederate soldiers and the public schools, you bring it back to four and a half mills as a maximum and what are you going to do when the days of 1890 and 1895 come back upon the State? Is not the credit of the State——

MR. OATES—I was going to suggest to you on that point that as late as 1895 the State had borrowed or obtained in some way $500,000 though it could only borrow $100,000. The way was done by placing the warrants of the State as collateral in New York and on the faith the people of New York had in this State and it was absolutely necessary in order to pay the teachers their money, and at that time the tax rate was five mills.

MR. GRAHAM—Five and a half including the soldiers.

MR. OATES—Five and a half at session of 1894-95.

MR. GRAHAM—And the State had $500,000 of floating indebtedness?

MR. OATES—Yes.

MR. GRAHAM—With the rate five mills and the Committee report brings it down to four and a half, you still have only one mill to go to the soldiers and one mill to the public school fund. Now there it is. There is the situation. I prefer to make it certain that the integrity of the State shall be maintained and then trust to the integrity of the Legislature that the taxing power of the State shall not be abused—that is all that there is in my proposition. I have the utmost confidence in every member of that Committee, I approve the motives which inspired them to do it, but I fear that they are reasoning upon a false premise if they believe that the State of Alabama and the sovereign people prefer that they should tamper with the good name of the State, simply to give them a promise of reduction in taxation. Gentlemen, consider this question well, and when you do vote, vote with it in your mind that you are going to maintain faith with the people of the State who are dependent upon the public schools, and with the Confederate soldiers who have received of your bounty and the bounty of the taxpayers of the State. Let me put one more point to you before I close. I do not believe that this Convention is going to pass the present limit of five mills in each county and seven and a half mills in the State. If you are not going to do that, where is the hope of the poor people of this State for educational facilities and educational fund except in the present State appropriation of $550,000 and the one mill special tax? I apprehend that the franchise law which we will frame here will cut down the poll tax receipts in this State. I apprehend that. Where are you going to compensate for that loss? There can be no local taxation. You talk about what the people will do after you put it in the Constitution whether they will ratify it at the polls, and I say to you that the supreme thing which you may write in the Constitution of Alabama is not who shall or who shall not vote in the future, but when you go to the mass of the sovereign white people of this State, the supreme thing which you write in that Constitution will be the provision for the education of the white children of Alabama, and it is on that line and out of

abundance of caution, that I stand here and plead for this Convention to leave the tax limitation at 75 cents, and risk it to the honor and integrity of future legislators to see that the people are not burdened under this limit, and that no surplus accumulates in our Treasury.

MR. CUNNINGHAM—I take it for granted that there are some points upon which we all agree. First, that the honor and dignity of the State and its credit should remain absolutely unimpaired; second, that the appropriations made for public schools should remain at least as high as they now are, and if possible increased; third, that the special tax for the benefit of ex-Confederate soldiers should remain what it is, and, if possible, be increased; fourth, that upon a majority of this Convention there is a limitation which acts as a bond of honor upon us, not to increase the tax rate of this State, and if possible to reduce it.

It, therefore, follows, Mr. President, that in recommending a reduction of the tax rate, the Committee should be able to explain and satisfy this Convention that this can be done without sacrificing either the credit of the State, the educational interests of the State, or the interests of the old soldiers. I confess to you, Mr. President, so far as I am concerned, I have been converted to the view of the Committee, which is unanimous, by the statistics furnished by the distinguished, able and pains-taking Chairman of the Committee, which he gets fresh from the Auditor's office of this State. I believe, Mr. President, that he has shown and for the reasons given in his very able address to this body, that all of these interests can be protected and at the same time taxes reduced to the amount of ten cents on the one hundred dollars.

There are one or two points to which I desire to call special attention, and upon which to place special emphasis and that is that there will be for years to come a constant increase in the assessed valuation of property of this State and in proof of that I submit two facts; first, that the increase during the last few years has been due to an absolute increase of value and not speculative or boom prices. And I desire to call attention to the further fact that it is being demonstrated daily that the manufacture of cotton in this State can be done with a great prospect of dividends and with considerable return upon the money invested in it, and final ly and that which in my judgment will add greatly to the value of the Taxable property of this State, is the established fact that when we can in Alabama make steel, and when it is established that we can make steel, it shows we are in the markets of the world for the highest products of iron. It has been established for years that we make the cheapest pig iron in the world. Now, since it has been demonstrated that we can make steel out of our ore and that we can make it cheaper than any other point in the world, it naturally follows that this country, especially this min-

eral district, will, in the next few years, increase twenty-five or fifty percent in valuation.

MR. GRAHAM (Talladega)—What effect upon the mineral development of the State do you think the prospective steel trust will have?

MR. CUNNINGHAM—That, Mr. President, is a practical question that enters into the economic consideration of trusts. I will answer the gentleman by saying that I do not believe that the great iron industry of the State of Alabama will ever be incorporated into the Steel Trust of the United States, and if it is, it stands to reason that the steel trust of the United States would not shut down it property in which there is the largest profit and keep operating those in which there is the smallest profit, and I am here to say if that were done, if the iron industries of this State were absorbed by the United States Steel Company, the strong probability is it would double the iron and steel production of Alabama because those products can be more cheaply made here than elsewhere.

Another reason why I believe this tax rate can be reduced is because the statistics of the State show that as the tax rate is reduced there is a tendency to an increased assessment of property. I call especial attention to the Auditor's report on page 21 where delegates will see that the tax rate was seven and a half in 1876. In 1877 it was reduced to seven mills and it remained at that figure until 1880. Delegates will find by referring to this table that the assessed value gradually decreased from 1876 to 1879 inclusive. In 1880 the tax rate was reduced to six and a half mills and delegates will find that the assessed value of the State greatly increased until 1887. Delegates will find that after the tax rate was reduced to six mills the assessed value increased in 1885 and 1886 over what it was in 1884. In 1887 you will find that the tax rate was reduced to five and a half mills in that year the assessed valuation was $214,000,000. In 1888 it was $228,000,000. In 1889 the tax rate was reduced to four and a half mills and we find a constant increase in the assessed valuation of the property until 1892. It therefore follows that as we decrease the rate there is an increased assessment and as you increase the rate other things being equal there is a diminished assessment of property. Now on the question of education.

MR. GRAHAM—One moment before the gentleman leaves that point. Do you not believe that the present State back tax law has raised the assessment to the highest limit possible?

MR. CUNNINGHAM—By reference to the Auditor's report you will find in the counties where the back tax law has operated it has been a great success and in the counties where it was not operated it was practically a nullity. We in Jefferson have felt it severely.

MR. GRAHAM—And righteously.

MR. CUNNINGHAM—Yes, righteously. Now, Mr. President, the gentleman's amendment proposes to strike out the only opportunity for local taxation for public schools. I am here to say that I am in favor of local taxation for public schools.

MR. GRAHAM—So am I.

MR. CUNNINGHAM—Not only that but I am in favor of an equitable distribution of the funds between the whites and the blacks of the State. The only opportunity to have local taxation for public schools is a reduction of the tax rate for the State and county.

No delegate upon this floor who looks upon the Democratic platform as I do can afford to increase the rate of State and county taxes for any purpose whatever. But when it is reduced to sixty-five it leaves a margin of ten cents on the one hundred dollars or one mill tax, for school purposes and I now give for the benefit of the Convention a statement made before the Teachers' Association a few days ago by one of the most distinguished and certainly a representative and possibly the best educator in the State of Alabama. I have reference to Prof. Phillips of Birmingham. He stated that the appropriation to the public schools out of the State treasury was sufficient and that the State was doing its part and he made an honest and earnest plea for local taxation for public schools not only for the purpose of raising the funds for educational purposes, but he cited the well known fact that men who take an interest in anything, who participate in it, feel a personal responsibility they would not otherwise have and in that way there would be a stimulation in this line all over the State of Alabama. This I believe is true and in this inheres the principal argument in favor of local taxation for public schools. I will not advance the idea, I repudiate it, that the great county of Jefferson which pays fifteen per cent. of the taxes of the State and gets back only one-third of that appropriated to public schools, should not bear its proportion of taxes for the purpose of educating the children of the entire State that are not so favorably placed as to natural resources. I believe the appropriation of the school fund out of the treasury of Alabama should be maintained and I am here to maintain it at its present limit. But I undertake to say there is an equity upon this question. I do not deny the fact that if the county of Jefferson were relieved of this ten cents on the one hundred dollars under a provision in the next section or two of this report it would have one mill for school purposes which would amount to $40,000 to the county of Jefferson. And it would amount to that to every county in Alabama that takes advantage of it, but I am here to say that every community in every county should feel it might come home to them and that the responsibility of this matter, that they should not look altogether to the city of Montgomery or to the Legislature for relief.

MR. SAMFORD—Do you hold to the principle that it is the duty of the State to educate its citizens or that it is the duty of the county?

MR. CUNNINGHAM—In a case such as ours where there is an unequal distribution, where there are greater and lesser counties, it is the duty of the State to appropriate money out of the common fund of the State for the purpose of extending the beneficient blessings of education to the poorer districts.

MR. SAMFORD—I will ask the gentleman if the reduction of ten cents won't have the effect to stop any increased appropriation out of the general treasury for public education in Alabama.

MR. CUNNINGHAM—Certainly not, but I will admit this that it would limit the capacity of the Legislature to appropriate money to a certain extent, but it transfers the responsibility and the authority in the matter from the State to the counties and the communities and it is an equity that inheres in that that the community should bear its proportion.

MR. SAMFORD—Then the gentleman holds that it is the duty of the county to educate its citizens and not of the State?

MR. CUNNINGHAM—As a part of your educational system and in this I am not alone but am in accord with the educational sentiment of the State upon this subject, as gathered from the teachers of the State of Alabama who know more in one minute about education than either the gentleman from Pike or the gentleman from Jefferson can know in a whole day. That is their view and I believe it is in keeping with the knowledge of human nature and in the general faculties making up the mind, that when you get a man interested in a question he will feel more interest than if he were an infant with the great State at Montgomery caring for him, I am asked what would be the effect of a fall in the rate of assessment on securities. It would increase the assessment twenty-five million. If you read the Auditor's report there are some novel features upon that question. I notice, for instance, that in the great county of Jefferson the amount of money hoarded in banks is $130,000, whereas in Geneva it is $260,000. That must be a typographical error. But the legislator who solves the great problem of smoking out the wealth that is hidden, that it may be exposed to taxation will be the greatest statesman ever produced up to this time in the world's history.

Now, I have taken up more time than I had expected, but if I can emphasize the fact that in voting for this committee's report, both as a member of the committee and as a delegate upon this floor, I do so with a clear and distinct conviction that I will not rob a single child in the State of Alabama of a single cent that is now appropriated for his education; that I will not detact from the State of Alabama an iota of its present high and great credit;

that I will not take from the old soldier of Alabama a solitary cent that he has for his comfort and support in his declining days; if I had a thought otherwise, I would have brought in a minority report and opposed this proposition.

MR. GRAHAM (Talladega)—Was it the purpose of the committee, if the question is proper, in suggesting that the tax rate be reduced to 65 cents, to enable this Convention to adopt the 1-mill tax for county purposes?

MR. CUNNINGHAM—I can answer only for myself that that is one of the purposes I had in view.

MR. GRAHAM (Talladega)—Suppose the Convention does not see proper to adopt that system, and it should fail, would the gentleman be in favor of going back to the 75 cents?

MR. CUNNINGHAM—Then the responsibility will rest on the friends of education and not upon the Committee on Taxation.

MR. GRAHAM—I want the gentleman to understand that I endorse local taxation and so stated awhile ago.

MR. CUNNINGHAM—Now, in regard to trusting the Legislature: I have no distrust of that honorable body. I have had the honor to be a member of it once or twice. I think it is a great honor, though some of my constituents differ with me—I am quite sure that is pretty general—but I want to call attention to a principle that inheres in human nature. It is true with the individual; it is true with the family; it is true with the community, and it is true with the State, that a surplus leads to extravagance always, and if there were a surplus in the treasury of the State of Alabama of say $500,000, and it was up to the Legislature to reduce the tax rate one mill on the dollar or to increase it for the purpose of education or some other such purpose, when the barefooted boy was disclosed to the vision of the Legislature, when the rhetorical bubbles of eloquence were held up before that body, what would be the result? They would vote the increase. I say, Mr. President, frankly, I am in favor of this limitation, not through distrust of the Legislature, but because I believe property in the State of Alabama should have some constitutional guaranty as to the extent to which it can be taxed.

At the suggestion of a gentleman, I repeat that Dr. Phillips stated in his address, and it was liberally applauded, that Alabama was doing as much out of the State treasury as she ought to do. That being the case, and inasmuch as the great question of local taxation for public schools depends upon the adoption of the committee's report, and, believing as I do, on this question of local taxation for public schools, I want to say I believe it to be the duty not only of those who honestly and conscientiously believe that this can be reduced without bringing detriment to the State, but also of those who favor local taxation for public schools, to vote for this committee's report.

MR. BULGER—Will the gentleman permit me to ask him a question?

MR. CUNNINGHAM—Certainly.

MR. BULGER—Do you not believe that if the tax rate were reduced to 65, it will absolutely prohibit the Legislature from doing anything more for the old soldiers and the public schools both?

MR. CUNNINGHAM—I do not, for the reasons stated heretofore that there is going to be a constant increase in the value of property in the State of Alabama for the reasons I attempted to give, and because the reduction in the tax rate will lead to a voluntarily increased assessment of property in the State, and, therefore, there will be as much money in the treasury under this reduction as there would be if the rate remained seventy-five.

MR. BULGER—Do you not believe it will decrease the capacity of the legislature to do anything more for the soldiers and for the public schools?

MR. CUNNINGHAM—The answer I gave to the gentleman's former question was that the increase in the value of the property, the voluntarily increased assessment, would lead to as much money being in the treasury as there is today and therefore it would not decrease the capacity or power of the legislature to make this increase.

MR. ASHCRAFT—Mr. President, I venture to make any remarks on this subject with great trepidation. I admit my inexperience.

I feel profoundly interested in the great question of local taxation for schools. That question lies very near to my heart. I believe it is one of the essential elements of the educational problem of this State. But as much as I love that idea, I love the idea of the general prosperity of my State and its good name and credit more. Upon the preservation of that good name and credit all of our prosperity depends. When the Committee made this statement it was reinforced by giving to us a sort of history of the distinquished gentleman who furnished the figures, that he has been in the Auditor's office for twelve years, that these figures were received from him, that he is regarded as an authority on these questions of taxation. So I went down and had an interview with the gentleman and he had the goodness to give me the orginal figures or the sheet of paper which contains the original figures, which he furnished to the Committee. He says that the conclusions of the Committee are its own conclusions and not his conclusions. "What are your conclusions, Judge Cook?" "My conclusions are on that piece of paper, and they are that if this tax is reduced, as is proposed by the Committee, the probable income of the State will be $1,750,000, while its probable expenditures will be $1,914,000." Then another question was propounded: "Ac-

cording to your experience and observation, do you believe, if this reduction is made, that the State can continue its present policy of appropriating one mill to the schools and one mill to the old soldiers?" He said: "My opinion is that one or the other of those appropriations will suffer."

It is but due since his name has been given as authority on this floor that his conclusions should be furnished to this Convention and I have, therefore, taken the liberty of quoting from the paper which he furnished me.

MR. KIRK—May I make a suggestion?

MR. ASHCRAFT—Certainly.

MR. KIRK—Judge Cook was before the Committee and I put the question to him: "Can we safely reduce the tax rate to six and a half mills and not interfere with this special appropriation for schools and for soldiers and at the same time make the $550,000 appropriation annually?" He said: "In my opinion you can."

MR. ASHCRAFT—I think the gentleman from Washington was present and heard the direct reply to the interrogatory which I propounded to Judge Cook. Here are the figures in black and white. Receipts $1,750,000; expenditures, $1,914,000.

MR. BROWNE—May I interrupt the gentleman to make a statement?

MR. ASHCRAFT—Yes, sir.

MR. BROWNE—Judge Cook did not have those figures before the Committee. Judge Cook did some figuring of his own. Judge Cook, without being influenced by any person whomsoever, after a careful investigation, in the presence of the Committee, gave it as his opinion that we could safely lower the rate from seventy-five to sixty-five to take effect next year and not affect the soldiers one mill nor the school tax one mill, nor the $550,000. Judge Cook helped me get up the figures that I published in a paper when this report first came in.

MR. BEDDOW—I rise to a point of order. The gentleman from Talladega is not asking a question but making an additional speech.

MR. BROWNE—I make the point of order that I asked the gentleman could I make the statement and the gentleman yielded and I am now making the statement.

MR. BEDDOW—I make the point of order.

THE PRESIDENT PRO TEM (Jones, Hale)—Does the gentleman submit to be interrupted?

MR. BROWNE—No, sir; I am not through.

THE PRESIDENT PRO TEM—Does the gentleman from Lauderdale consent to the interruption?

MR. ASHCRAFT—I am sorry but the gentleman has the concluding of the debate—

MR. BROWNE—Then the gentleman declines to allow me to correct a mis-statement?

MR. BEDDOW—I rise to a point of order. The gentleman is out of order.

THE PRESIDENT PRO TEM—The gentleman from Talladega is out of order.

MR. ASHCRAFT—I have made no mis-statement. Here are the figures that were furnished me.

MR. BROWNE—I rise to a question of personal privilege.

THE PRESIDENT PRO TEM—The gentleman will state the question.

MR. BROWNE—The figures the gentleman presents are entirely different from those reported by me and the gentleman states that those figures are the figures Judge Cook presented before the Committee. I desire to state that they are not the figures that Judge Cook presented before the Committee.

MR. ASHCRAFT—The gentleman misunderstood me if he understood me to say that those are the figures that Judge Cook presented to the Committee. I stated that Judge Cook said he had presented the figures to the Committee and that they are correct, but that the conclusions which the Committee had drawn from those figures were the conclusions of the Committee, that the conclusions which he drew from those figures are as I stated to this Convention. I think that is clear.

Now the point I desire to make is this: That we are proposing to set a limitation upon the power of the Legislature to impose taxes upon the property of this State and we are proposing to set that limitation probably for fifty years to come. We are undertaking to say that there will come no time in the history of the State when it will need a larger appropriation or not so large an appropriation as it is now using. If we are about to do that upon the conclusions of gentleman from figures and statistics which have been made up from our past records, we should act with great caution when it comes to an action based on that sort of information, because, Mr. President, here are gentlemen of business capacities, business integrity and patriotic purposes who draw a very optimistic conclusion as to the future, and here is a man who is quoted as one of the best authorities in the State who

draws an entirely different conclusion! Which of these conclusions is correct? Can this Convention take the risk of saying this man is wrong and the Committee is right? Are not the interests involved too great for us to take any risk on the subject of reducing this limit on taxation? If it should result in a reduction of the school fund or if it should result in a reduction of the old soldier fund or if it should result in depriving the State of the ability to take any forward step in that great social, moral and political progress which it ought to take before another Constitution is made, then, Mr. President, ought we not to stand on the safe side? Can we afford to do something here today which may probably stand across the path of progress and hinder our advance? I said a while ago that much as I love certain other ideas and thoughts which are before the Convention, if to maintain our present standard of security those other principals must be sacrificed, I am willing to make the sacrifice.

We have great things in store for this State, but we are not going to continue to increase in financial prosperity, our great manufacturing and our great agricultural districts are not going to increase and multiply and grow great without making upon us corresponding demands for progress in all the other departments of government; and it is only through this means of levying a tax upon the property in this State that we can make this political, social and educational progress.

And so, Mr. President, I say the risk we take in making the reduction, the chances we take of injuring the credit of our State and of compelling ourselves in the very near future to pay a higher rate of interest by endangering our credit—all of these things ought to make us vote for this reduction only after the most mature deliberation. We ought not, I say Mr. President, to take this great risk.

MR. deGRAFFENREID—I move the adoption of the amendment of the gentleman from Talladega and upon that I move the previous question.

MR. LOWE (Jefferson)—I ask the gentleman to withdraw that motion.

MR. REESE—The amendment of the delegate from Talladega is not before the House.

THE PRESIDENT PRO TEM—The Chair understands the amendment of the gentleman from Talladega to the amendment of the gentleman from Jefferson's (Mr. Howze) original Section of the Committee's report is the question now before the House.

MR. LOWE (Jefferson)—Mr. President, I dislike to be put in the attitude of opposing a reduction of taxation. Some of those who have advocated this report and even the Chairman of the

Committee whose report proposes to reduce the tax limit in Alabama, have sought to put those who are opposed to the reduction of the tax limit in the attitude of opposing the reduction of taxation. That is hardly a fair statement of the proposition. I opposed the report of the Committee to reduce the tax limit from 75 cents to 50, or the lower fractions if you choose to put them that way, upon the ground that it is unnecessary, that it is uncalled for and that it is an attempt upon the part of this Convention to prescribe legislation which ought properly to be left to the legislative assemblies that are to come after us. In the argument of the distinguished gentleman from Jefferson who preceded me he read from a report showing that after the tax limit was placed at 75 cents in 1876, in 1877 the General Assembly reduced the rate of taxation to 70 cents, that it stood at 70 cents for two years and in 1880 it was reduced to 65 cents, that it stood at 65 cents for four years. Then in 1885 the General Assembly reduced the tax rate—I repeat that to show the distinction between the tax limit and the tax rate—to 60 cents. It kept that that for two years and in 1887 the General Assembly reduced the tax rate to 55 cents and the next year reduced it to 50 cents, in 1889 to 45 and in 1890 to 40 cents. So it continued until 1892. But the General Assembly had reduced the tax rate too low and they found it out and they increased it in 1893 to 50 cents, in 1894 it was 50 and in 1895 55, and it went on until they had to go back to the limit. And to meet what? I deny it was a gross expenditure of public money. They had to do it because the General Assembly had reduced the tax rate so low that there came a deficiency in the Treasury and it was in order to pay the State's honest debts and we had to go back to the full rate. There is a lesson to be learned right there. It is against the policy of good government to accumulate a surplus in the Treasury; but it is against the policy of good government to have a deficit in the Treasury. And so the General Assembly meeting every two years, as I hope it will continue to meet, can deal with the existing conditions as they find them, and if the condition of affairs justify the reduction, you know that the General Assembly can be trusted to make the reduction. The record of the past has shown it. Now, if the General Assembly had had a narrow limit within which to make the reduction, it would not have been safe to have done it, and it would have been necessary to preserve the credit of the State to continue the tax rate which had put the surplus in the Treasury to meet contingencies. But fortunately they were able to meet the situation, knowing that when those conditions changed and when with a lower rate they can still protect the credit of the State, they will go back to it.

I dare say there has not been a sentiment in any section demanding a limit on the power of the General Assembly below that established by the Constitution of 1875. The record of all these years is that this matter has been safely left to the General As-

sembly and why should we depart from it now? Is it because this Constitutional Convention proposes to discharge the functions of all the legislatures that are to come after it? If we cannot trust the Legislature to deal fairly with the people, how can we well trust ourselves? The people might be as jealous of our assertion of power as of the Legislature's. The Legislature is elected by the same people that sent us here. They are as honest and good men as we dare claim ourselves to be. They are jealous of the welfare of the State. Two weeks ago I thought I saw a conservative sentiment in this Convention, to leave the old Constitution which our father framed untouched in every sentence and in every syllable except where a new demand had arisen or an evil had been found under the old system. But in these later days in the last few days there has grown up a sentiment I scarcely know whence it came, but each man who conceives that the General Assembly has not enacted laws suited to his idea, now wants to repeal that law in this Constitutional Convention.

Gentlemen of the Convention, we are not sent here for any such purpose. We are sent here to frame a Constitution that would stand for at least as many years as our present constitution.

Now upon the doctrine of equity, let us consider it. I was asked a while ago by a member of the Convention I esteem, "Do you know of any reason why we should adopt it? Do you know of any reason under this record on page 21 why we should not be willing to trust the General Assembly to deal fairly with the tax rate?"

MR. ROBINSON—Has not the general average tax rate in the last twenty years been below six and a half?

MR. LOWE—I have no doubt the gentleman can answer it better than I can and I do not doubt he asks the question because he can answer it and I would like for him to answer it.

MR. deGRAFFENREID—And if that is so, didn't it show that we can still trust the Legislature?

MR. LOWE—That is what I was going to say.

Now looking at this as you would on a suit in chancery for an injunction or any other extraordinary remedy. A court would first consider what will be the effect of the denial of the remedy asked for and if it appears that serious consequences may follow the granting of relief and but slight evil consequences will follow the refusal of the relief, it is the duty of the court to deny the relief asked in the extraordinary form. So I ask what evil can follow to Alabama by reason of the refusal to pass the recommendation of the Committee, can any evil result in the light of history? And I ask the Chairman of the Committee can any evil result by leaving it where it is?

MR. BROWNE—I think if evil would not result from leaving it where it is, the Democratic State Convention would not have

pledged us to reduce that rate, if possible, I will now ask the gentleman again what did the Democratic party mean in State Convention assembled by pledging this Convention to reduce that rate, if possible?

MR. LOWE—I will answer the gentleman, because I am glad to say, though some sections of the press may have favored a departure from the Democratic platform, no Democrat has yet raised himself on this floor to advocate a departure in the slightest degree from the pledges made to the people. The pledge of the party was, in the first place, that there should be no increase in the tax rate, and, if possible, that there should be a reduction. How are we to determine the possibility? It lies in the consciences of the members of the Convention to determine it, and upon whose authority are we asked to determine it? Upon authority that I respect, an authority that may be immaculate, but is not infallible. It seems that this unanimous report of the committee has been based upon the representation of the clerk in the Auditor's office.

MR. BROWNE—That statement is not exactly correct, and I would like to correct it.

MR. LOWE—The authority for making the statement has been stated to the convention.

MR. BROWNE—I stated who gave that to us and we went in and examined it and I could state that I have spent fifteen or twenty hours in the Auditor's office myself on the matter.

MR. LOWE—If I misstated that, the Convention already knew the sources of information and the ground upon which the recommendation was made, but I say that this Convention ought to hesitate to accept such an authority in the fact of the tremendous consequences that may follow an error in the judgment of these gentlemen. And we know by the records that the gentleman the committtee quotes, that if this amendment prevails, if we adopt the old clause of the Constitution that no evil can come to the people because representatives fresh from the people every two years will determine this question.

But, Mr. President, I should not have cared so much about that, although I recognized that as one of the dangers which menaced this Convention and the State—I would not have cared so much for that as for the tendency that has manifested itself and cropped out in every report and in the argument of every man who has appeared on this floor with a fad or hobby, that it should be protected by the Constitution.

The Constitution is not a grant of power to the Legislature; it is simply a limitation, a negation, upon them. The call for this Convention was made possible by one impulse. There was no man who dared before the call for the Convention go out on the

stump and advocate particular reasons why this Convention should be called. But one of them was to purify the franchise to make possible fair and honest elections in Alabama. This Convention would do its work well if it provided for that contingency; if it preserved this Government in the hands of white people, where the elections would be fair and free from fraud and then adjourn. The people would say well done. But if that is not done, if there is a glaring evil that must be corrected, let us do it, but when we are called on to accept the opinion of one set of men admitted to be expert as against the opinion of another set of men whom I believe to be experts, I will accept the opinion of the set of men which, if wrong, will have the least evils following it.

MR. PEARCE—It seems to me that this matter has been pretty well discussed, and about all the trouble in it is imaginary evil. In fact, nearly all of our troubles are that. I want to state to this Convention that we examined this matter as carefully as we knew how, and I think we knew how. We examined all the resources of information without fear of punishment or hope of reward. Panics have been used on this floor as a great scarecrow. Now it is always fair to discuss both sides of any proposition, and the gentlemen who discussed the panics never told this crowd that the men who make the money by their sweat to pay the taxes in this State—that when the panics came, their power to pay would be reduced. I hope we won't have any panics, but if we do, it will effect the men who make the money by bringing themselves in contact with the minerals, just as much as it will effect property. The only question for you to decide is, whether if this panic comes, you will use a little more economy in the administration of your State or whether you will sweat the people more that make the money to pay the taxes.

MR. GRAHAM (Talladega)—I do not care to take up the time of the convention in further discussion, and I move the previous question on my amendment.

MR. REESE—I move to table the amendment of the gentleman from Talladega.

THE PRESIDENT PRO TEM.—The previous question has been called for and the question is, is the call sustained?

MR. BROWNE—I make the point of order that any delegate has a right to move to table the amendment of the delegate from Talladega.

The President here took the chair.

MR. O'NEAL—In view of the importance of this matter and to give the delegates opportunity to consider it I move to adjourn.

THE PRESIDENT—Did the gentleman from Dallas move to lay the call for the previous question on the table?

MR. REESE—No, the amendment.

THE PRESIDENT—And thereupon the gentleman from Lauderdale moved to adjourn and in the opinion of the chair the motion to adjourn has precedence.

MR. GRAHAM—I would like to ask the gentleman to withdraw that motion. As County Superintendent I am forced to be with the teachers at Talladega tomorrow and I want to vote on this question.

MR. COLEMAN—I ask the gentleman to withdraw the motion for the previous question.

MR. O'NEAL—I will withdraw the motion to adjourn if you will withdraw the motion for the previous question?

MR. GRAHAM—I think the matter has been sufficiently discussed and I will let it remain as it stands.

MR. LOWE—I shall vote against the previous question on a matter of this importance. We should have a full discussion.

MR. HEFLIN (Chambers)—I rise to a point of order. A motion to adjourn is not debatable.

THE PRESIDENT—The point is well taken. The Chair was not entertaining debate, but merely that the gentlemen might understand each other.

MR. CUNNINGHAM—Under a special rule that the Convention should hold until 6 o'clock today, will not the rules have to be suspended to carry a motion to adjourn?

THE PRESIDENT—It seems to the Chair that a motion to adjourn is a privileged question and is in order at any time.

MR. CUNNINGHAM—Does the Chair hold that a motion to adjourn supersedes a special order?

THE PRESIDENT—It seems to the Chair under our rule 26 a motion to adjourn shall always be in order even in the absence of a quorum, except when on the call for the previous question the main question shall have been ordered, when the Chair is stating a question, when the roll is being called and a vote has not been announced, or when a vote is being verified, etc.

MR. CUNNINGHAM—The point of order is that it operates as a suspension of the rules. On yesterday the hour for adjournment was fixed at 6 o'clock this afternoon and therefore the motion should be to suspend the rules.

THE PRESIDENT—In the opinion of the Chair the point of order is not well taken.

A vote being taken the Convention refused to adjourn.

MR. GRAHAM—I renew my call for the previous question.

THE PRESIDENT—And the question is on the motion of the gentleman from Dallas to table the amendment of the gentleman from Talladega.

Those in favor of the motion to table will say aye; those opposed, no; it seems to the Chair—

MR. BROWNE—I call for the ayes and noes.

MR. SAMFORD—I rise to a point of order. After the vote has been put viva voce it is too late to call for the ayes and noes.

MR. BROWNE—I withdraw the call.

A division was called for.

MR. deGRAFFENREID—We would like for the Chair to state the question we are voting on. Some think we are voting on the motion for the previous question, and others that we are voting on the amendment.

THE PRESIDENT—The motion was to table the amendment, as the Chair understood it.

MR. GRAHAM (Talladega)—I call for the reading of the amendment.

THE PRESIDENT—Let the Chair state the question. The gentleman from Talladega called for the previous question upon the adoption of the amendment offered by him, which was to amend the amendment, offered by the gentleman from Jefferson to the section as reported by the Committee. Thereupon the gentleman from Dallas moved to lay the amendment by the gentleman from Talladega upon the table, and the reading of the amendment is called for. As many as favor the adoption of the motion of the gentleman from Dallas to lay upon the table the amendment of the gentleman from Talladega will rise and remain standing until counted after the reading of the amendment.

MR. JENKINS—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. JENKINS—That a motion to lay an amendment on the table cannot be put after a call for the previous question. The only motion that can be put is the motion for the previous question.

THE PRESIDENT—The Chair overrules the point of order.

MR. ROGERS (Sumter)—I move that the ayes and noes be called for upon the motion to lay the amendment of the gentle-

man from Talladega upon the table. I call for the ayes and noes upon that question.

MR. GRAHAM (Talladega)—I make the point of order that the question has already been put and a division demanded.

MR. ROGERS (Sumter)—I make the point of order that the House did not know what was before it. The Chair has now stated what is before the House, and as we are now voting upon the specific proposition stated by the Chair, I call for the ayes and noes upon that question.

THE PRESIDENT—The Chair will state that when the same question was raised a short time since, the Chair ruled that the call for the ayes and noes came too late. Since then the Chair has come to the conclusion that ruling was erroneous, and that the call for the ayes and noes can be made at this time.

MR. ROGERS (Sumter)—I renew the motion then, that we have the ayes and noes upon this proposition.

THE PRESIDENT—The point of order of the gentleman from Talladega is overruled. The question is whether the call for the ayes and noes is sustained.

And the call was sustained.

MR. GRAHAM (Talladega)—The amendment has not been read.

The amendment was read as follows:

Amend Section 4 by striking out the words "sixty-five" and inserting in lieu thereof the words "seventy-five," and adding at the end of the section the following: "for the two years succeeding the adoption of this Constitution, after which time no greater rate than sixty-five one-hundredths of one per centum shall be levied."

The amendment to the amendment by Mr. Graham (Talladega) was read as follows: Amend the amendment by striking out all of it except the words "seventy-five."

THE PRESIDENT—The question is upon the motion of the gentleman from Dallas to lay upon the table the amendment of the gentleman from Talladega, and the ayes and noes have been ordered. As many as favor tabling the amendment of the gentleman from Talladega, will say aye as their names are called, and as many as are opposed will say no.

MR. LOWE (Jefferson)—I would like for the Chair to state the effect of the aye and no vote.

THE PRESIDENT—If a majority vote aye, it will be to lay the amendment offered by the gentleman from Talladega upon the table.

MR. LOWE (Jefferson)—That will establish the old Constitution, as I understand it? Leave the provision in the old Constitution intact?

MR. BROWNE—I make the point of order that the gentlemen upon the floor of this Convention understand the question as stated by the Chair.

MR. LOWE (Jefferson)—As I understand it, and that is why I ask for the statement, the refusal to lay upon the table, would leave the amendment to the amendment restoring the rate in the old Constitution?

THE PRESIDENT—The amendment offered by the gentleman from Talladega is to retain the present tax rate, that of seventy-five cents, and if it is laid upon the table, it will be upon the table subject to the pleasure of the Convention.

MR. HARRISON—The question will then recur upon the amendment offered by the gentleman from Jefferson.

THE PRESIDENT—The question will then recur, of course, upon the amendment offered by the gentleman from Jefferson. As many as favor the motion to table will say aye, and those opposed no, as your names are called.

During the roll call—

MR. JENKINS—I desire to vote aye for the purpose of moving to reconsider the vote (to which statement there were expressions of disapproval).

MR. JENKINS—Then I vote aye.

MR. LONG (Walker)—I am paired with the gentleman from Montgomery, Mr. Graham; if he were present he would vote no, and I would vote aye.

Upon the call of the roll, the vote resulted as follows:

AYES.

Messrs. President,	Chapman,	Fletcher,
Almon,	Cobb,	Foster,
Altman,	Cofer,	Glover,
Barefield,	Coleman, of Greene,	Grant,
Bethune,	Coleman, of Walker,	Grayson,
Brooks,	Craig,	Greer, of Perry,
Browne,	Cunningham,	Haley,
Burnett,	Davis, of DeKalb,	Harrison,
Burns,	Davis, of Etowah,	Heflin, of Chambers,
Byars,	Duke,	Heflin, of Randolph,
Cardon,	Espy,	Hinson,
Carnathon,	Fitts,	Hodges,

Howze,
Inge,
Jackson,
Jenkins,
Jones, of Wilcox,
King,
Kirk,
Knight,
Kyle,
Leigh,
MacDonald,
McMillan (Baldwin),
Malone,
Martin,
Maxwell,
Merrill,
Miller, of Marengo,
Miller, of Wilcox,
Moody,
Morrisette,
NeSmith,
O'Neal, of Lauderdale,
O'Rear,
Palmer,
Parker, of Elmore,
Pearce,
Pettus,
Phillips,
Pillans,
Pitts,
Proctor,
Reese,
Renfro,
Reynolds (Henry),
Robinson,
Rogers, of Lowndes,
Rogers, of Sumter,
Sanford,
Searcy,
Sentell,
Sloan,
Smith, Morgan M.,
Sorrell,
Spears,
Spragins,
Stewart,
Studdard,
Tayloe,
Walker,
Weatherly,
Whiteside,
Williams, of Marengo,
Winn.

Total—89.

NOES.

Ashcraft,
Banks,
Beddow,
Blackwell,
Bulger,
Carmichael, of Colbert,
Carmichael, of Coffee,
Case,
Cornwall,
deGraffenreid,
Eley,
Eyster,
Graham, of Talladega,
Greer, of Calhoun,
Henderson,
Hood,
Jones, of Bibb,
Jones, of Montgomery,
Kirkland,
Ledbetter,
Lomax,
Lowe, of Jefferson,
McMillan, of Wilcox,
Murphree,
Norman,
Oates,
O'Neill (Jefferson),
Opp,
Porter,
Samford,
Sanders,
Selheimer,
Smith, of Mobile,
Smith, Mac A.,
Waddell,
Watts,
Weakley,
White,
Williams, of Barbour,
Wilson, of Clarke,
Wilson, of Washington,

Total—41.

ABSENT OR NOT VOTING.

Bartlett,
Beavers,
Boone,
Dent,
Ferguson,
Foshee,
Freeman,
Gilmore,
Graham, of Montgomery,
Handley,
Howell,
Jones, of Hale,
Locklin,
Long, of Butler,
Long of Walker,
Lowe, of Lawrence,
Mulkey,
Norwood,
Parker, of Cullman,
Reynolds, of Chilton,
Sollie,
Thompson,
Vaughan,
Willet,
Williams, of Elmore.

So the motion to table was carried.

MR. BROWNE—I now move the previous question upon the amendment offered by the gentleman from Jefferson offered by the gentleman from Jefferson, and upon the original section as reported by the committee.

MR. O'NEAL—I ask the gentleman to withdraw his motion. There are several gentlemen who have amendments which they ought to have an opportunity to present.

MR. deGRAFFENREID—I move to lay the amendment of the gentleman from Jefferson and the section was reported by the committee upon the table, and upon that I call for the ayes and noes.

MR. LOWE (Jefferson)—I move that we do now adjourn.

THE PRESIDENT—The gentleman from Talladega moves the previous question upon the amendment offered by the gentleman from Jefferson, and the section as reported by the committee. Thereupon the gentleman from Hale moves to lay upon the table the amendment offered by the gentleman from Jefferson, and the section as reported by the committee. Thereupon the gentleman from Jefferson moves that this Convention do now adjourn. As many as favor the motion to adjourn will say aye; those opposed will say no.

And the motion to adjourn was lost.

THE PRESIDENT—The question recurs upon the motion to table. The ayes and noes have been demanded and the question is, is the call sustained?

The requisite number of members stood up.

MR. COLEMAN (Greene)—I ask for a division of the question, if it can be done.

THE PRESIDENT—The call for the ayes and noes is sustained.

MR. COLEMAN (Greene)—I call for a division of the question.

THE PRESIDENT—The chair will state that this question was ruled by the chair contrary to the right for a division, but upon further reflection and investigation, the chair is of the opinion that in overruling the request for a division, the chair was in error. The chair will reserve the former ruling, and rule that the division is in order.

The first question will be upon the motion to table the amendment offered by the gentleman from Jefferson.

The chair will state he finds it laid down by Mr. Cushing in his Law of the Practice of Legislative Assemblies, that a division

may be had upon a motion to table, where the motion to table relates to more than one separate and distinct proposition. The question is first upon the motion to lay upon the table the amendment offered by the gentleman from Jefferson, to the section as reported by the Committee on Taxation.

MR. BROOKS—I rise to make the point of order that the motion to divide has reference to a pending resolution, wherever the sense will admit of it, but on a motion to table two resolutions, it does not mean a division of the question; that is a separation of the two motions, which is altogether a different thing.

THE PRESIDENT—Mr. Cushing lays it down that where a motion to table contains two propositions, an original proposition and an amendment to the proposition, that it is in order to have a vote upon each in their order. So the question is upon the motion to table the amendment offered by the gentleman from Jefferson, and upon that the ayes and noes are called for, and the call has been sustained.

MR. GRAHAM (Talladega)—I call for the reading of the amendment.

The amendment was again read.

MR. GRAHAM (Talladega)—I would like to have it read in connection with the section which it proposes to amend.

The section and the amendment were read.

THE PRESIDENT—The Secretary will call the roll.

During the call of the roll:—

MR. BANKS—I am paired with Mr. Leigh; if he were present he would vote aye and I vote no.

MR. LONG (Walker)—I am paired with the gentleman from Montgomery; if he was present he would vote no and I would vote aye.

MR. SLOAN—I ask the chair to state the question so that I may have an opportunity to change my vote.

THE PRESIDENT—The question is on the motion to table the amendment offered by the gentleman from Jefferson to the section reported by the committee.

MR. SLOAN—Do I understand that the vote is now to table the amendment offered by the gentleman from Jefferson?

THE PRESIDENT—It is.

MR. SLOAN—I wish to change my vote to aye.

The call of the roll resulted as follows:

AYES.

Almon,
Barefield,
Bethune,
Blackwell,
Brooks,
Browne,
Bulger,
Burnett,
Burns,
Byars,
Cardon,
Carnathon,
Case,
Chapman,
Cobb,
Cofer,
Coleman, of Greene,
Coleman, of Walker,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
deGraffenreid,
Duke,
Espy,
Fitts,
Fletcher,
Foster,
Glover,
Grant,
Grayson,
Greer, of Perry,
Haley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Hodges,
Inge,
Jones, of Bibb,
Jones, of Wilcox,
King,
Kirk,
Knight,
Kyle,
Lomax,
Lowe, of Jefferson,
Macdonald,
McMillan, of Baldwin,
Malone,
Martin,
Maxwell,
Miller (Marengo)
Miller (Wilcox)
Moody,
Morrisette,
NeSmith,
O'Neal (Lauderdale),
O'Rear,
Palmer,
Pearce,
Pettus,
Phillips,
Pillans,
Pitts,
Proctor,
Reese,
Renfro,
Reynolds, of Henry,
Robinson,
Rogers (Lowndes),
Rogers (Sumter),
Samford,
Sanders,
Sanford,
Searcy,
Sentell,
Sloan,
Smith (Mobile),
Smith, Morgan M.,
Sollie,
Sorrell,
Spears,
Spragins,
Stewart,
Stoddard,
Tayloe,
Walker,
Weakley,
Weatherly,
Whiteside,
Williams (Marengo),
Wilson (Wash'gton),
Winn.

Total—94.

NOES.

Messrs. President,
Ashcraft,
Beddow,
Carmichael, of Colbert,
Carmichael, of Coffee,
Cornwall,
Eley,
Eyster,
Graham, of Talladega,
Greer, of Calhoun,
Henderson,
Hood,
Howze,
Jackson,
Jenkins,
Jones, of Montgomery,
Kirkland,
Ledbetter,
McMillan (Wilcox),
Murphree,
Norman,
Oates,
O'Neill, of Jefferson,
Opp,
Parker (Elmore),
Porter,
Selheimer,
Smith, Mac. A.,
Waddell,
Watts,
White,
Williams (Barbour),
Wilson (Clarke),

Total—33.

ABSENT OR NOT VOTING.

Altman,	Graham, of Montgomery,	Mulkey,
Banks,	Handley,	Norwood,
Bartlett,	Howell,	Parker (Cullman),
Beavers,	Jones, of Hale.	Reynolds (Chilton),
Boone,	Leigh,	Thompson,
Dent,	Locklin,	Vaughan,
Ferguson,	Long of Butler,	Willet,
Foshee,	Long, of Walker,	Williams (Elmore),
Freeman,	Lowe, of Lawrence,	
Gilmore,	Merrill,	

And the amendment was laid upon the table.

MR. deGRAFFENREID—I believe there was a division—

MR. BROWNE—I make the point of order that the previous question was ordered.

MR. deGRAFFENREID — There was a motion to law the amendment and Section on the table, and the gentleman from Greene called for a division, and the Chair held the question could be divided, and the House has voted upon the amendment. The next in order it seems to me, would be the call of the roll as to whether the Section should be laid on the table.

MR. O'NEAL (Lauderdale)—I move we adjourn.

THE PRESIDENT—The next question will be upon the Section as reported by the Committee.

MR. JONES (Montgomery)—I move we adjourn.

THE PRESIDENT—The question is on the motion of the gentleman from Hale—

MR. WILSON (Clarke)—I call for the ayes and noes on the motion—

THE PRESIDENT—They have been ordered.

MR. WILSON (Clarke)—On the motion to adjourn?

THE PRESIDENT—The Chair rules a motion to adjourn is not in order after the previous question has been ordered.

MR. O'NEAL (Lauderdale)—The previous question has not been ordered.

MR. WILSON (Washington)—This is a motion to table. The previous question was displaced by a motion to table.

THE PRESIDENT—The gentleman is correct. The motion by the gentleman from Hale was to lay upon the table, first the amendment offered by the gentleman from Jefferson then the Sec-

tion as reported by the Committee, and a division was called for and granted. The question would now be upon the motion to table the Section as reported by the Committee.

MR. deGRAFFENREID—And it seems to be a motion to adjourn would not be in order.

THE PRESIDENT—Will the gentleman suspend a moment? The Chair rules a motion to adjourn will not be in order when the Chair is stating a question, or when the roll is being called, or has been called and the vote has not been announced. The roll is being called now upon a division of the question, and a motion to adjourn is not in order. The question is upon the motion to lay upon the table the Section as reported by the Committee.

MR. JENKINS—I rise to a point of order.

THE PRESIDENT—The gentleman will state the point of order.

MR. JENKINS—Under the rules we adopted yesterday, this Convention stands adjourned at 6 o'clock, and it is now 6 o'clock.

MR. BROWNE—I make the point of order, Mr. Chairman, if the hour of adjournment—

THE PRESIDENT—The point of order is not well taken. As many as favor laying upon the table the Section as reported by the Committee will say aye, and those opposed no, as their names are called.

MR. LOWE (Jefferson)—Do I understand the Chair to hold that the Convention is now in the act of taking a vote when the Chair has just stated the question and not a name has been called upon the roll?

THE PRESIDENT—The vote is being taken under the division of the question.

MR. LOWE (Jefferson)—The roll is not now being called Mr. President.

THE PRESIDENT—It seems to the Chair that the Convention is in the act of voting upon a division of the question, having voted upon one branch—

MR. LOWE (Jefferson)—I know that debate is not in order, but I make it as a suggestion; suppose there had been six divisions of the question, and the hour of adjournment was about to strike, and the vote by ayes and noes upon each one of these questions would have taken as long as it takes here, some twenty minutes, would the President hold that—

(Here the clock struck the hour of 6 o'clock.)

I want to say that what I have said is in expression of my opposition to gag law, by which they seek to establish a permanent law upon Alabama, and I am going to continue to do it as long as the advocates of measures here appeal to gag law,——

MR. JONES (Montgomery)—I rise to a point of order. This Convention stands adjourned under its own rule.

THE PRESIDENT—The Convention will stand adjourned until 10 o'clock tomorrow morning.

CORRECTION

In proceedings of thirty-first day, part of the report of Committee on Amending the Constitution and Miscellaneous Provisions was omitted. In is here inserted.

The motion to turn over the affairs of the State last column of third page was made by Mr. Fitts and not by Mr. Pitts.

Report of Committee on Amending the Constitution and Miscellaneous Provisions, to which was referred Ordinance No. 390, by Mr. Spears of St. Clair, has instructed me to report favorably the accompanying substitute for said ordinance. The Committee was not unanimous, some of its members reserving the right to oppose the adoption of the ordinance.

Under instructions from the committee, the chairman reports, for the information of the Convention, the facts showing the necessity for a Court House in the district affected, without recommendation as to the policy of adopting ordinances which are local in their operation, and within the province of the Legislature.

St. Clair County is divided into two parts by Back Bone Mountain, which runs entirely across the county from east to west. The two portions into which it is thus divided are nearly equal in area and population, while the larger portion of the wealth of this county is in that portion which lies south of the mountain. A greater portion of the litigation in the county originates in the territory south of the mountain, and a greater number of the parties and witnesses who attend the courts in St. Clair county are from that territory. The mountain is rugged and barren, and not inhabited. Immediately north of the mountain stretches a level country plain called "the flat woods," which is also barren and uninhabited, and which in wet weather is boggy and difficult of passage. The roads over the mountain and through the "flat woods" are almost impassable, and the character of the country over which they run is of such character that the revenues of the country are insufficient to put them in good condition. The only railroad route between the portion of the county affected by this ordinance and the county seat is by way of Birmingham, a distance of 80 miles. There is

no trade between the residents on the south side of the mountain and the county seat. Attendance upon courts is about the only business which takes people living on the south side of the mountain to the county seat. The people on both sides of the mountain seem to be practically united in the desire for a court house on the south side of the mountain.

The above facts are stated upon information obtained from the reputable citizens of St. Clair county who have been before your committee. These gentlemen were all Democrats except Col. Spears, who introduced the ordinance. This fact is stated so that the Convention may be informed that the adoption of this ordinance is desired by all the people and not by those of one political faith only.

The committee has had before it letters from the Probate Judge and Circuit Clerk of St. Clair county, from the Solicitor of the Circuit which embraces that county, and from other prominent citizens of the county, among others Judge Inzer and Judge Greene, all recommending the adoption of this ordinance, if the Convention sees fit to take up any matters of this kind.

Respectfully submitted,

J. M. Foster, Chairman.

An Ordinance to provide for the establishment of a court house and jail at some point to be determined by an election by the people, in that portion of St. Clair which lies south and southeast of Back Bone mountains, and which is embraced in precincts numbered 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20 and 21, in said county.

Be it ordained by the people of Alabama in Convention assembled:

First—That it shall be the duty of the Probate Judge of St. Clair county to order an election to be held in precincts numbered 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20 and 21 in St. Clair county, not later than sixty days after the ratification of the Constitution to be submitted to this Convention, for a vote of the qualified electors in said precincts upon the selection of a place within the territory embraced in said precincts, at which a court house and jail shall be erected and maintained. Officers for such election shall be appointed, and the election, in all things in accordance with the law governing general elections. Upon the ballot to be used at such election the name of all places to be voted on shall be printed, and the choice of the electors shall be indicated by a cross mark before the place of his choice. The votes cast at such election shall be canvassed, tabulated, returns thereof made, and counted in the same manner as is done in the elections for Sheriff

and other county officers. At the place receiving the highest number of votes at such election there shall be erected and maintained a court house and jail for the trial of all cases and the transaction of all legal business originating in said precincts 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20 and 21. The venue of all actions and suits (other than such as are to be tried before Justices of the Peace) in which only residents of that portion of said St. Clair which lies south and southeast of Back Bone mountain, except as otherwise provided by law, shall be at the court house herein provided for. Provided, however, that Ashville, in St. Clair county, shall continue to be the county seat of said county until changed by vote of the qualified electors residing in that part of St. Clair county which lies north northwest of said Back Bone mountain.

Second—The Court of County Commissioners of St. Clair county shall at its first regular meeting after the election provided for in Section 1 of this Ordinance take all necessary steps and make all necessary orders to issue and sell bonds of St. Clair county to the amount of $10,000, the proceeds to be used only for the erection and equipment of such court house and jail, or to provide by other means a sufficient amount of money to erect a suitable court house and jail at the place which shall have been selected in accordance with said Section 1, and to properly equip and furnish the same with record books and other necessary equipments; provided, however, that if said Court of County Commissioners shall levy a tax for such purpose, such tax shall be levied on all taxable property in said county, but all of such tax shall not be levied and collected in one year. And provided, further, that such court house and jail shall be completed in every way and shall be ready for the holding of court and the transaction of legal business on or before the first day of the Spring Term, 1903, of the Circuit Court of St. Clair county.

Third—The Sheriff, Probate Judge, Circuit Clerk, Register in Chancery, Tax Assessor, Tax Collector and Superintendent of Education of St. Clair county shall keep offices in the court house which shall be built in accordance with the provisions of this ordinance.

Fourth—The General Assembly at its first meeting after the ratification of the Constitution to be submitted to the people by this Convention, shall enact laws regulating the holding of Court at the court house provided for in this ordinances.

Fifth—This ordinance shall be valid and effective if the Constitution which shall be framed by this Convention be ratified by the people. Otherwise, it shall be void.

THIRTY-THIRD DAY

MONTGOMERY, ALA.,
Saturday, June 29, 1901.

The Convention met at 10 o'clock a. m. pursuant to adjournment, was called to order by the President and opened with prayer by the Rev. Mr. Lamar, as follows:

Humbly and reverently we bow before Thee, O Lord our Maker and Redeemer, to render to Thee our praises for Thy continued mercies, for Thy continued care of us. We thank Thee for the largeness and richness of Thy providence towards us. We thank Three for the provisions of Thy grace. We thank Thee for all the favorable conditions under which we live. We come to Thee this morning Lord to ask Thy blessing upon us in such measure that will enable us to voice our gratitude to Thee in our lives. May Thy servants, the officers and members of this Convention, receive such blessings from Thee as shall fit them for their places in Thy kingdom, and grant Lord that Thy providence may continue to be a shield above our people. May our people fear Thee. May they work righteousness and may we be indeed Thy happy people whose God is the Lord. We beseech Thee Lord that Thou wilt forgive our sins; wash away all our uncleanliness; guide us in all our ways and thoughts, and at last save us in Thy eternal kingdom, we ask it for the sake of Christ our Lord, Amen.

The Secretary called the roll of delegates and 110 members responded to their names.

Leaves of absence were granted as follows: Mr. Reynolds of Chilton for today; Mr. Altman of Sumter for today; Mr. Banks for the evening session today; Mr. McMillan of Wilcox for Monday; Mr. McMillan of Baldwin for today and Monday; Mr. Walker for today; Mr. Jones of Hale for today and Monday, Mr. Espy of Henry for today; Mr. Lowe of Lawrence for today; Mr. King for today and Monday; Mr. Wilson of Washington for Monday.

The report of the Committee on the Journal was read, stating that the journal for the thirty-second day of the Convention had been examined and found correct, and the report was adopted.

THE PRESIDENT—The Secretary will call the roll of delegates for the introduction of resolution, ordinances, etc.

Resolution No. 207 by Mr. Beddow:

Resolved, That when this Convention adjourns on Wednesday evening, July 3rd, that it adjourn to meet at 12 m., Monday, July 8th.

MR. BEDDOW—In order to get the sense of this Convention on that question, and to give us a chance to take the Fourth of July at home, I move that the rules be suspended and that the resolution be put upon its passage.

Upon a vote being taken, the Convention refused to suspend the rules.

Resolution No. 208, by Mr. Cornwall.

Resolved, That the time allowed each delegate for speaking on any one question be and is hereby limited to ten minutes, and that unanimous consent must be obtained to extend the time.

Referred to the Committee on Rules.

Resolution No. 209, by Mr. Reynolds (Henry.)

Whereas, there is a disposition to take up much time in debating whether or not certain ordinances are proper constitutional provisions or legislative enactments, and

Whereas, this Convention can frame a better instrument by leaving legislative enactments out of the Constitution.

Therefore, be it resolved, That when this Convention is in doubt as to whether any pending amendment should be left to the Legislature or not, that such amendment be referred to the Judiciary Committee, with instructions that they pass upon this question and make recommendation in accordance with their judgment.

Referred to Committee on Judiciary.

MR. SAMFORD (Pike)—I would like for the gentleman also to incorporate a rule for the Judiciary Committee to go by in passing on those questions.

THE PRESIDENT—Proceed with the call.

Ordinance 406 by Mr. Rogers (Sumter.)

Be it ordained by the people of Alabama that after the first day of January, 1903, no tax in excess of ten cents (10) per ton, other than an advalorem tax, shall be levied on fertilizers manufactured or sold in the State of Alabama.

Referred to Committee on Taxation.

Resolution No. 210 by Mr. Rogers (Lowndes.)

Resolved, That the Convention remain in session until 2 o'clock p. m. and dispense with the afternoon session.

MR. deGRAFFENREID—I move a suspension of the rules that the resolution may be put upon its immediate passage.

MR. BROOKS—I move to amend by adding to it "this day."

THE PRESIDENT—The resolution is not before the Convention the question is upon the suspension of the rules to place the resolution upon its immediate passage.

Upon a vote being taken the rules were suspended, by a vote of sixty-eight ayes and twenty-eight noes.

MR. BROOKS—I desire to amend, by making the resolution apply only to today.

THE PRESIDENT—It does by its terms apply to today.

Ordinance No. 407, by Mr. Sanford:

An ordinance to authorize the General Assembly to amend the Constitution of the State.

Be it ordained by the people of Alabama in Convention assembled, that the General Assembly be authorized and empowered to amend the Constitution of the State by the enactment of laws which shall contain the proposed amendment or amendments, and after the passage of such laws by a vote of the majority of all the members elected to each House of the General Assembly, the same shall be submitted to a vote of the people for their ratification or rejection at any time, other than that fixed for a general election in Alabama.

Referred to the Committee on Legislative Department.

Resolution No. 211, by Mr. Smith, M. M., (Autauga):

Whereas, the office of Commissioner of Agriculture was originally created for the benefit of the farming interest, and whereas the tax of 50 cents per ton on fertilizer was originally imposed for the alleged exclusive benefit of the farmer, and provide for inspection of fertilizer for the farmer's protection, and whereas, said office of Commissioner of Agriculture has been changed by this Convention into the Commissioner of Agriculture and Industries, and where it is not just or fair that the burden of paying for said department should fall exclusively on the farmers of the State, therefore

Be it resolved, That it is the sense of this Convention that the Legislature should reduce the tax on fertilizer to an amount not in excess of cost of inspection.

Referred to the Committee on Taxation.

Mr. Cunningham (Jefferson) here took the chair.

MR. SPRAGINS—I desire to offer a petition by request, not to be read, but I ask that it be included in the stenographic report.

There being no objection, it was so ordered, and the petition was as follows:

Petition No. 9, introduced by request by Mr. Spragins (Madison):

To the Officers and Members of the Alabama Constitutional Convention:

Humbly petitioning, the undersigned would respectfully state that he is a citizen of Alabama and a tax payer of Madison county therein, hence he feels at liberty to submit to your honorable body such suggestions touching matters that you have been called together to consider, as in his judgment will tend to advance the material interests of the State and her people.

Profoundly impressed with the belief that Alabama possesses natural resources and advantages which would place her citizens among the most prosperous, the most influential and with attainments of the highest civilization of any other of our Republics, provided conditions are made favorable for their development and utilization, I am therefore led to suggest that your honorable body make such provisions in the organic law of the State as will best tend to secure and maintain amicable and just relations between labor and capital herein, the same being the base of all human progress and the foundation of all human welfare and happiness.

The right of the individual citizen to earn an honest living free from intimidation or undue influence from any source whatever, is, and should be so, held by all properly constituted authority in the State, as sacred as life itself, since on the exercise of that right the lives and happiness of dependent loved ones frequently depend. It should not be in the power of any one ever to jeopardize that right much less to deprive a citizen of it.

I refer plainly and more specifically to the denial of that right and its frequent deprivation, at the hands of labor unions and labor leaders, when they demand and obtain the employment by any one of "only" union labor. This demand is not infrequently successful through the silence of an intimidated press, and vitiated public sentiment; for these would otherwise protect the freeman in the exercise of this right without the dictation of terms by others.

"Equal rights for all, and special privileges to none" should be so just a maxim in the economy of domestic life, that no one could be found who would seek to interfere in its impartial operation. It is this privilege that places before the humblest in our land those incentives for noble action and effort as makes human progress possible. It is a standard that guides the motives and serves to uplift the struggling masses of mankind around us.

A boycott from any organized source is a crime against society, and should be classed along with the deeds of the highwayman and the midnight robber. These latter hold up their victims and take their money by force, but the boycott often operates more wantonly and often more cruelly against its victims. Personal gain animates the highwayman and the robber, while personal enmity most frequently actuates the leaders in a boycott. Not only is the victim brought to face financial ruin at times, but innocent and dependent ones are deprived of the necessaries of life. Such things should never be possible under any form of civilized government. A strike at the command of an organization is likewise a crime against so-

ciety, for it is well nigh impossible for a strike to occur without inflicting injuries on innocent persons whom society is obliged to protect. Failing in which the ties of citizenship are loosened and respect for law and authority, the foundations of good government destroyed. Likewise a "lockout" or combine by employers to force employes to accept arbitrary wages that may be insufficient to provide an honest living is a crime against that right heretofore alluded to, and should never be permitted to occur.

A measure of compulsory arbitration provided in the organic law, that will prohibit strikes, lockouts and boycotts, would tend to remedy and prevent the foregoing evils. Such a measure is only what is now applied to other citizens. None are permitted to take the righting of real or supposed wrong in their own hands, but are compelled, under proper penalties, to apply to the duty constituted courts of the land for that purpose; and no burden can be placed on, or wrong done to, either labor or capital by putting these under the same remedial measures and civic discipline that governs all others in society.

Respect for the foregoing principles constitutes the best safeguard of a good government, and no measure may be considered too drastic that is necessary to preserve this among the people. Deal justly by both, and place both under equal obligations to preserve industrial peace and you will render a service to present and future generations greater than any words of mine can express. Praying for Divine Wisdom to guide you right in your deliberations, and that you may act for the best interests of our beloved State, I am, Your most obedient servant,

N. F. Thompson,

Huntsville, Ala., June 26, 1901.

Upon the call of the Standing Committees, the Committee on Suffrage and Elections submitted its report, as follows:

Report of Committee on Suffrage and Elections.

Mr. President:

The Committee on Suffrage and Elections have requested that the following report be submitted:

The Committee has read and considered with care the many resolutions and ordinances referred to it and have had the benefit of an extensive correspondence with leading men of other States upon the question of suffrage and elections. Many of them contain valuable suggestions and have been of great assistance in the important work assigned to us.

Our main purpose has been to eliminate the venal and incompetent from the exercise of the elective franchise and not violate any of the provisions of the Constitution of the United States. We are of the opinion that the Fifteenth Amendment of the Constitution of the United States does not interfere with the sovereign right of the State to prescribe the qualifications of voters, further

than to prohibit discrimination on account of "race, color or previous condition of servitude," and this limitation in no way interferes with the sovereign power of the State to fix a standard of fitness, applicable to all alike. Existing conditions and the object to be attained necessitated the making of provisions new and different from those which are in our present Constitution.

To give full effect to the plan submitted by the Committee, it became necessary to provide a temporary board of registration, limited to January 1, 1903, and to devolve upon the Legislature the duty to provide a permanent plan of registration to take effect on and after that date.

We have spared neither time, labor nor study to frame a suitable article upon the subject of elections and franchises and it is with pleasure we state that no member of the Committee dissents from any of the provisions except upon sub-division 2 of Section 4 of the Article, upon which there will be a minority report submitted. We herewith return all ordinances and resolutions submitted to us.

ARTICLE ——.

Suffrage and Elections.

Section 1. Every male citizen of this State who is a citizen of the United States, 21 years old or upwards, not laboring under any of the disabilities named in this Article, and possessing the qualifications required by it, shall be an elector, and shall be entitled to vote at any election by the people.

Sec. 2. To entitle a citizen to vote at any election by the people, he shall have resided in the State at least two years, in the county one year, and in the precinct or ward three months immediately preceding the election at which he offers to vote, and he shall have been duly registered as an elector, and shall have paid on or before the first day of February next preceding the date of the election at which he offers to vote, all poll taxes due from him for the year 1901, and for each subsequent year; provided, that any elector, who, within three months next preceding the date of the election at which he offers to vote, has removed from one precinct or ward to another precinct or ward in the same county, incorporated town or city shall have the right to vote in the precinct or ward from which he has so removed, if he would have been entitled to vote in such precinct or ward, but for such removal.

Sec. 3. All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce.

Sec. 4. The following male citizens of this State who are citizens of the United States, 21 years old or upwards, who, if their place of residence shall remain unchanged, will have, at the date of the next general election, the qualifications as to residence prescribed in Section 2 of this Ar-

ticle and who are not disqualified under Section 6 of this Article, shall, upon application, be entitled to register as electors prior to the first day of January, 1903, namely:

First—All who have honorably served in the land or naval forces of the United States in the War of 1812, or in the War with Mexico, or in any war with the Indians, or in the Civil War between the States, or in the war with Spain, or who honorably served in the land or naval forces of the Confederate States, or of the State of Alabama in the war between the States; or

Second—The lawful descendants of persons who honorably served in the land or naval forces of the United States in the War of the American Revolution, or in the War of 1812, or in the War with Mexico, or in any war with the Indians, or in the Civil War between the States, or in the land or naval forces of the Confederate States; or

Third—All persons of good character and who understand the duties and obligations of citizenship under a Republication form of government.

Sec. 5. After the first day of January, 1903, the following persons, and no others, who, if their place of residence shall remain unchanged, will have, at the date of the next general election, the qualifications as to residence prescribed in Section 2 of this Article, shall be qualified to register as electors, Provided, they shall not be disqualified under Section 6 of this Article.

First—Those who, unless prevented by physical disability, can read and write any Article of the Constitution of the United States in the English language, and who, being physically able to work, have been regularly engaged in some lawful business or occupation, trade or calling for twelve months next preceeding the time they offer to register; or

Second—The owner in good faith, in his own right, or the husband of a woman who is the owner in good faith, in her own right, of forty acres of land situate in this State, upon which they reside; or the owner in good faith, in his own right, or the husband of any woman who is the owner in good faith, in her own right, of real estate situate in this State assessed for taxation at the value of $300 or more, or the owner in good faith, in his own right, or the husband of a woman who is the owner in good faith, in her own right, of personal property in this State assessed for taxation at $300 or more; provided, that the taxes due upon such real or personal property for the next year preceding the year in which he offers to register shall have been paid, unless the assessment shall have been legally contested and is undetermined.

Sec. 6.—The following persons shall be disqualified both from registering and from voting, namely: All idiots and insane person; those who shall by reason of conviction of crime be disqualified from voting at the time of the ratification of this Constitution; and those who shall be convicted of treason, murder, arson, embezzlement, malfeasance in office, larceny, receiving stolen property, obtaining property or money under false pretenses,

perjury, subordination of perjury, robbery, assault with intent or rob, burglary, forgery, bribery, assault and battery on the wife, bigamy, living in adultery, sodomy, incest, rape, miscegenation, crime against nature, or any crime, punishable by imprisonment in the penitentiary, or of any infamous crime or crime involving moral turpitude; also any person who shall be convicted as a vagrant or tramp, or of selling or offering to sell his vote or the vote of another, or of buying or offering to buy the vote of another in any election, or to procure the nomination or election of any person to any office, or of suboring any witness or registrar to secure the registration of any person as an elector.

Sec. 7.—No person shall be qualified to vote or participate in any primary election, party convention, mass meeting, or other method of party action of any political party or faction, who shall not possess the qualifications prescribed in this article, for an elector, or who shall be disqualified under the provisions of this article from voting.

Sec. 8.—No person, not registered and qualified as an elector under the provision of this article, shall vote at any State, county or municipal election, general, local or special, held subsequent to the general election in 1902; but the provisions of this article shall not apply to any election held prior to the general election in 1902.

Sec. 9.—Any elector whose right to vote shall be challenged for any legal cause before an election officer shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received, and any one who wilfully swears or affirms falsely thereto shall be guilty of perjury.

Sec. 10.—The General Assembly shall provide by law for the registration, after the first day of January, 1903, of all qualified electors. Until the first day of January, 1903, all electors shall be registered under and in accordance with the requirements of this Section, as follows:

First—Registration shall be conducted, in each county, by a board of three reputable and suitable persons resident in the county, who shall not hold any elective office during their term, to be appointed within 60 days after the ratification of this Constitution by the Governor, Auditor and Commissioner of Agriculture and Industries, or a majority of them acting as a Board of Appointment. If one or more of the persons appointed on such Board of Registration shall refuse, neglect or be unable to qualify or serve, or a vacancy or vacancies occur in the membership of the Board of Registrars from any cause, the Governor, Auditor and Commissioner of Agriculture and Industries, or a majority of them acting as a Board of Appointment, shall make other appointments to fill such board. Each registrar shall receive $2 per day, to be paid by the State and disbursed by the several Probate Judges, for each entire day's attendance upon the sessions of the Board.

Before entering upon the performance of the duties of his office each registrar shall take the same oath required of the judicial officers of the State, which oath may be administered by any person authorized by law

to administer oaths. The oath shall be in writing and subscribed by the registrar and filed in the office of the Probate Judge of the county.

Second—Prior to the first day of August 1902, the Board of Registrars in each county shall visit each precinct at least once, and oftener if necessary, to make a complete registration of all persons entitled to register, and remain there at least one day from 8 o'clock in the morning until sunset. They shall give at least twenty days' notice of the time when and the place in the precinct where they will attend to register applicants for registration, by bills posted at five or more public places in each election precinct, and by advertisement in a newspaper, if there be one, published in the county, once a week for three consecutive weeks. Upon failure to give such notice, or to attend any appointment made by them in any precinct, they shall, after like notice, fill new appointments therein; but the time consumed by the board in completing such registration shall not exceed sixty working days in each county, except that in counties in which there is any city of 8,000 inhabitants or over the board may remain in session, in addition to the sessions hereinabove prescribed, for not more than three successive weeks in each of said cities; and thereafter the board may sit from time to time in each of the cities not more than one week in each month, and except that in the county of Jefferson the board may hold additional sessions, of not exceeding five consecutive days duration for each session, in any town or city of 1,000 or more and less than 8,000 inhabitants. No person shall be registered except at the county site or in the precinct in which he resides. The registrar shall issue to each person registered a certificate of registration.

Third—The Board of Registrars shall register no person between the first day day of August, 1902, and the Friday next preceding the day of the election in November, 1902. On Friday and Saturday next preceding the day of the election in November, 1902, they shall sit in the court house of each county during such days, and shall register all applicants having the qualifications prescribed by Section Two of this Article, and not disqualified under Section 5, who shall have reached the age of 21 years after the first day of August, 1902, or who shall prove to the reasonable satisfaction of the Board that by reason of physical disability or unfavorable absence from the county, they had no opportunity to register prior to the first day of August, 1902; and shall on such days register no other persons. When there are two or more Court Houses in one county, the Registrars may sit during such two days at either of such Court Houses they may select, but shall give ten days' notice by bills posted at each of the other Court Houses, designating the Court House at which they will so sit.

Fourth—The Board of Registrars shall hold sessions at the Court House of their respective counties during the entire third week in November, 1902, and for six working days next prior to the 20th day of December, 1902, during which sessions they shall register all persons applying who possess the qualifications prescribed in Sections 2 and 4, and who shall not be disqualified under Section 6 of this Article. In counties where there are two or more Court Houses, the Board of Registrars may elect at which Court House they will hold such sessions. The Board of Registrars shall

give notice of the time and place of such sessions by posting notices at each Court House in their respective counties and at each voting place and at three other public places in the county, and by publication once a week for two consecutive weeks in a newspaper, if one be published in tion, and to take testimony touching and such publication to be commenced as early as practicable in the first week in November, 1902; Provided, that a failure on the part of the Registrars to conform to the provisions of this Section as to notices to be given shall not invalidate any registration made by them.

Fifth—The Board of Registrars shall have power to examine, under oath or affirmation, all applicants for registration, and to take testimony touching the qualifications of such applicants; each member of such Board is authorized to administer the oath to be taken by the applicants and witnesses, which shall be in the following form, and subscribed by the person making it, and preserved by the Board, namely:

"I solemnly swear (or affirm) that in the matter of the application of ———— for registration as an elector, I will speak the truth, the whole truth and nothing but the truth, so help me God."

Any person who, upon examination, makes any wilfully false statement in reference to any material matter touching the qualifications of any applicants for registration, shall be guilty of perjury.

Sixth—The action of the majority of the Board of Registrars shall be the action of the Board. Any person denied registration shall have the right to appeal, within thirty days after such denial, by filing a petition in a Circuit Court or court of like jurisdiction held for the county in which he seeks to vote, to have his qualifications as an elector determined. Upon filing the petition the Clerk of the Court shall give notice thereof to any solicitor authorized to represent the State in said County, whose duty it shall be to appear and defend against the petition on behalf of the State. Upon such trial, the court shall charge the jury only as to what constituted the qualifications that entitled the applicant to become an elector at the time he applied for registration, and the jury shall determine the weight and effect of the evidence and return a verdict. From the judgment rendered an appeal will lie to the Supreme Court in favor of the petitioner, to be taken within thirty days. Final judgment in favor of the petitioner shall entitle him to registration as of the date of his application to the Registrars.

Seventh—The Secretary of State shall, at the expense of the State, have prepared and furnished to the Registrars and Probate Judges in the several counties a sufficient number of registration books, and of blank forms of certificates of registration and of oaths and of the notices required to be given by the Registrars. The cost of the publication in newspapers of the notices required to be given by the Registrars shall be paid by the State, the bills therefor to be rendered to the Secretary of State and approved by him.

Sec. 11. The Board of Registrars in each county shall, on, or before the 1st day of February, 1903, file in the Probate Court of their county a complete list, sworn to by them, of all persons registered in their county,

with the precinct or ward in which each of such persons reside set opposite the name of such person, and shall also file a like list in the office of the Secretary of State. The Judge of Probate shall, on or before the 1st day of March, 1903, cause to be made from such list, in duplicate, in the books furnished by the Secretary of State, an alphabetical list by precincts of the persons shown by the list of the Registrars to have been registered in the county, and shall file one of such alphabetical lists in the office of the Secretary of State, for which services by the Probate Judges compensation shall be provided by the General Assembly. The Judges of Probate shall keep both the original list filed by the Registrars and the alphabetical list made therefrom as records in the Probate Court of the county.

Unless he shall become disqualified under the provisions of this Article, any one who shall register prior to the 1st day of January, 1903, shall remain an elector during life, and shall be required to re-register only in case of a change of residence, on production of his certificate. The certificate of the Registrars or of the Probate Judge or of the Secretary of State shall be sufficient evidence to establish the fact of such life registration. Such certificate shall be issued free of charge to the elector, and the General Assembly shall provide by law for the renewal of such certificate when lost, mutilated or destroyed.

Sec. 12. From and after the 1st day of January, 1903, any applicant for registration may be required to state under oath, to be administered by the Registrar, or by any person authorized by law to administer oaths, where he lived during the five years next preceding the time at which he applies to register, and the name or names that he was known by during that period, and the name or names of his employer or employers, if any, during such period. Any applicant for registration who refuses to state such facts, or any of them, shall not be entitled to register, and any person so offering to register who wilfully makes a false statement in regard to such matters or any of them shall be guilty of perjury.

Sec. 13.—In the trial of any contested election, and in proceedings to investigate any election, no person other than a defendant shall be allowed to withhold his testimony on the ground that he may criminate himself or subject himself to public infamy; but such person shall not be prosecuted for any offense arising out of the transaction concerning which he testified, but may be prosecuted for perjury committed on such examination.

Sec. 4. The General Assembly shall pass laws, not inconsistent with this Constitution, to regulate and govern elections, and all such laws shall be uniform throughout the State; and shall provide by law for the manner of holding elections and of ascertaining the result of the same, and shall provide general registration laws, not inconsistent with the provisions of this Article, for the registration of all qualified electors from and after the first day of January, 1903. The General Assembly shall also make provision by law, not inconsistent with this Article, for the regulation of primary elections and for punishing frauds at the same, but shall not make primary elections compulsory.

Sec. 15. It shall be the duty of the General Assembly to pass adequate laws giving protection against the evils arising from the use of intoxicating liquors at all elections.

Sec. 16. Electors shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, or while going to or returning therefrom.

Sec. 17. Returns of elections for all civil officers who are to be commissioned by the Governor, except Secretary of State, Auditor, Treasurer, Commissioner of Agriculture and Industries, Attorney General, and Superintendent of Education, and for the members of the General Assembly, shall be made to the Secretary of State.

Sec. 18. The poll tax mentioned in this Article shall be one dollar and fifty cents upon each male inhabitant of the State, over the age of twenty-one years, and under the age of forty-five years, who would not now be exempt by law. Such poll tax shall become due and payable on the first day of October in each year and become delinquent on the first day of the next succeeding February, but no legal process nor any fee or commission shall be allowed for the collection thereof. The Tax Collector shall make returns of poll tax collections separate from other collections.

Sec. 19. If any section of this Article shall become inoperative and void by reason of the decision of any court of competent jurisdiction, the General Assembly shall have power, and it is hereby authorized, to remedy the defect in such section pointed out by such adjudication, by a two-thirds vote of all the members of each house of the General Assembly; provided, that the sections of this Article unaffected by such decision shall remain unchanged. Upon any other section becoming inoperative by any subsequent adjudication of such court, the General Assembly shall have authority to remedy the defect in like manner as hereinabove prescribed.

Mr. White of the committee submitted the following

MINORITY REPORT.

Mr. President:

The undersigned, members of the Committee on Suffrage and Elections, beg leave to dissent from that part of the report of said committee which recommends the adoption of the second sub-division of Section 4 of the Article reported by said committee, which reads as follows:

"The lawful descendants of persons who honorably served in the land or naval forces of the United States in the War of the American Revolution, or in the War of 1812, or in the War with Mexico, or in any war with the Indians, or in the Civil War between the States, or in the land or naval forces of the Confederate States, or of the State of Alabama in the War between the States."

We are of opinion that the above clause, on its face, violates the Federal Constitution, which we have taken an oath to support. It undertakes, by indirect means, to deny or abridge the right to vote to citizens of the United States, on account of race, color, or previous condition of servitude, which is forbidden by the Fifteenth Amendment to that instrument.

This is done by conferring the right to vote upon a class, viz., descendants of soldiers, this class including practically all of the white, and excluding practically all of the negro race.

The clause quoted does not erect a standard of qualifications applicable to both races, but establishes an arbitrary standard, which, considered in connection with the history of the country, confers the right of suffrage upon members of the white race (who are descendants of such soldiers) and denies it to members of the black race, who are not such descendants.

It does not prescribe a qualification bearing any proper relation to the capacity of the voter to understand and discharge the responsibilities of the elective franchise, but fixes an arbitrary status, depending solely upon his descent from an ancestry over which he had and has no control, and which is impossible of attainment by any exertion on his part.

We submit that the test required is not a rule or condition to which all citizens similarly situated may conform. This, we understand from the decisions of the United States Supreme Court is necessary to make it valid.

For these reasons we believe this clause to be violative of the 15th amendment to the Federal Constitution, in its necessary operation, without reference to its administration. It can only be administered in one way, and can affect, materially, only the two classes established by it.

By adopting this provision we invite an attack upon our suffrage plan through the courts, which may declare it void, and also, give Congress an opportunity to reduce our representation in the Lower House, and our vote in the electoral college, and it seems that the minority are not alone in the apprehension that something of this kind may occur.

The committee itself has expressed its want of confidence in the validity of this scheme, by recommending the adoption of Section 19, which provides that if any section of the article should become inoperative and void by reason of the decision of any court of competent jurisdiction the Legislature might remedy the defect caused by such decision—an unusual and extraordinary conception.

Will any member of the committee, or any other candid man, maintain that this scheme is not intended to discriminate in favor of one race and against the other?

Aside from the Constitutional objections, there are other weighty reasons why this provisions should not be in our Constitution:

First—It establishes a permanent, hereditary, governing class, which is undemocratic, unrepublican, and un-American.

Second—It is not in keeping with the dignity of a progressive, just and enlightened State.

Third—It insults the white men of Alabama and proclaims their inferiority to the negro by requiring of them, as suffragans, a lower standard of capacity and intelligence than that required by the negro.

Fourth—It is impracticable of administration, owing to the impossibility of establishing, with any certainty, descent from remote ancestors. The field of speculation into which we are carried opens wide the doors of fraud and perjury.

Fifth—It is not necessary. The ballot can be secured to the honest and capable without resorting to this subterfuge.

Sixth—Out of respect for the opinion of thoughtful and fair minded men everywhere, we ought not to incorporate in our fundamental law this unwise and questionable scheme. It will retard the investment of capital, and check the flow of immigration to our State. Alabama should take no backward step.

Seventh — The adoption of a fair and honest suffrage plan would secure the sympathy and confidence of our fellow citizens in every section of the Union.

Eighth—By accepting this novel device we are launching the ship of state upon unexplored seas. We had better pursue the course our fathers traveled and use the helm with which they steered.

We adhere firmly to the Jacksonian Democratic doctrine of equal rights to all, special privileges to none.

Hence, we recommend that the aforesaid subdivision 2 of Section 4 be stricken out.

Respectfully submitted,

Frank S. White,
S. H. Dent,
George P. Harrison,
William C. Oates.

THE PRESIDENT—The Chair will call the attention of the Chairman of the committee to the fact that the rules do not apply to the printing of reports, and it will be necessary to have a

motion, if the committee desires the report of the committee to be printed.

MR. COLEMAN (Greene)—We desire the report to be laid upon the table and printed, and taken up at such time hereafter as may be the pleasure of the Convention.

MR. LOMAX—How many copies did the gentleman provide for?

MR. COLEMAN (Greene)—Five hundred.

MR. LOMAX—I would make it a thousand.

MR. SPRAGGINS — A question of inquiry. How many copies will be printed? I would suggest that a thousand copies be printed so that there may be six copies for each member of the Convention.

MR. COLEMAN (Greene)—The committee has no preference and accepts the proposition.

THE PRESIDENT — The gentleman moves that a thousand copies be printed and six copies delivered to each member.

MR. WHITE—I suppose that includes the minority report?

MR. COLEMAN (Greene)—My motion covers both. I think it is but just to the whole committee to say that we never heard the minority report read to us as a minority report, though we have heard it frequently in the speeches before the committee.

MR. OATES—It is because we wrote the report last night, and did not have an opportunity of showing it to the committee.

MR. PROCTOR—I move to amend the motion that a thousand copies be printed, and make it two thousand. It costs but very little more for two thousand than for one.

MR. O'NEAL (Lauderdale)—I would like to know about what will be the additional cost of a thousand copies?

THE PRESIDENT—The gentleman from Jackson says that the cost will be very little more.

MR. PROCTOR—But very little, it is just the cost of the paper and the work to do it—

MR. COLEMAN (Greene)—The Chairman of the Committee has stated that he has no objection; whatever will facilitate a public understanding.

MR. SAMFORD—I ask that the further amendment be made to double the amount given the members of the Convention; that will be twelve for each member instead of six.

THE PRESIDENT—The Secretary suggests if the number given each member be doubled, it will not give enough for the Secretary's office.

MR. SAMFORD—I withdraw that then.

MR. PROCTOR—I move that we give twelve copies to each member. That will give the Secretary one hundred and forty-four copies to lie on the desk.

MR. COLEMAN (Greene)—I accept the amendment.

The motion, as amended, was carried.

MR. PARKER (Elmore)—I desire to offer a short resolution.

THE PRESIDENT—The Chair will call attention of the Convention to the resolution, as it is probable a motion will be submitted to place the resolution upon its passage.

The resolution was read as follows:

Resolution No. 212, by Mr. Parker (Elmore):

Resolved, That the privileges of the floor of this Convention are hereby extended to Honorable J. J. Sullivan of Pensacola, Florida, who is visiting the Convention to extend the greetings of West Florida to the Convention on the hearty spirit of annexation that it has manifested.

MR. WHITE—I move to amend that the vote be taken by a rising vote.

By a rising vote, the rules were suspended, one hundred and nine members voting for, and none against the motion; upon a further vote being taken the resolution was unanimously adopted.

THE PRESIDENT—The Chair will state to the Convention that a motion was entered to reconsider the vote whereby section 1 of the ordinance reported by the Committee on Taxation was adopted, and it was a special order immediately after the reading of the journal on yesterday, but the Chair failed to call the attention of the Convention to the pendency of the motion. It seems to the Chair that that question ought to be disposed of by the Convention in some way.

MR. BROWNE—I move to lay that motion upon the table.

MR. SOLLIE—Withdraw your motion and let me make a statement which I think will settle the matter. I am not going to press it on the Convention, but desire to make a motion before the House to take it from the House more gracefully perhaps, than a motion to table.

MR. BROWNE—With that understanding, I withdraw the motion.

MR. SOLLIE — I move an indefinite postponement of the question, to be taken up hereafter by unanimous consent if it is desired to be taken up.

And the motion to indefinitely postpone consideration was carried.

THE PRESIDENT—The regular order will be the consideration of the report of the Committee on Taxation.

When the Convention adjourned on yesterday, we had under consideration Section 4, and the pending question was a motion entered by the gentleman from Hale to lay upon the table the section as reported by the Committee. The gentleman from Hale.

MR. deGRAFFENREID—I want to ask unanimous consent of the Convention to be allowed to withdraw the demand for the ayes and noes upon the motion.

MR. BROWNE—I ask also, with the consent of the gentleman from Hale, unanimous consent to withdraw the motion for the previous question.

THE PRESIDENT—We had probably better dispose of one at a time. Is there objection—

MR. COFER—I object.

THE PRESIDENT—The question is upon the motion to table Section 4, and upon that the ayes and noes have been demanded and ordered by the Convention.

MR. COFER—I will withdraw the objection.

MR. deGRAFFENREID — I now withdraw my motion to table if I am in order to do so.

By unanimous consent the motion to table was withdrawn.

MR. BROWNE—I now ask unanimous consent to withdraw the motion for the previous question. I desire in that connection to state that upon yesterday when the gentleman from Talladega, Mr. Graham, offered his amendment, and made his argument, predicated upon the estimates of the Auditor, which were confessedly erroneous, he afterwards moved the previous question upon his own amendment, which, if carried, would have debarred the Committee or any member of it from the privilege of showing the errors of the estimate. After that was voted down, I demanded the previous question upon the other amendment, which I now desire to withdraw.

THE PRESIDENT — The gentleman from Talladega asks unanimous consent to withdraw the demand for the previous question. Is there objection? The Chair hears none.

MR. deGRAFFENREID—I offer an amendment to the section.

The amendment was read as follows: Amend Section 4 by striking out the word "sixty-five" and adding in lieu thereof the word "seventy," and add at the end of the section the following: "The General Assembly shall, at each session, set apart a sufficient amount of such levy, to pay the interest on the public debt, and the proceeds of the levy so set apart shall be used for no other purpose."

MR. deGRAFFENREID—I object to the report of the Committee so far as the section which is sought to be amended is concerned, because I was afraid that in the desire to reduce the taxes of the State the Convention might go too far, if a limit of sixty-five cents on the hundred dollars was placed upon the General Assembly. The gentleman from Talladega, when he read his report, gave us certain figures that he had received from some officer in the Auditor's Department, and certain estimates that he had received from the various Probate Judges of the State, and upon them he based the statement that this year, and next year, and perhaps the next, the State of Alabama could safely go upon a six and one-half mill basis.

If this were the Legislature instead of a Constitutional Convention, I would, in the light of those estimates, unhesitatingly vote for the reduction, but we are now adopting a Constitution which shall be a limitation upon the future action of legislators, and I call the Convention's attention to the fact that these estimates are based upon valuations fixed at a period of inflation, which is greater now than it has ever been in the history of the world. Stocks and bonds and other personal property that are quoted upon the floors of the various stock exchanges of the world, are selling higher than they have ever sold before in the history of the world, and, as I have stated, we have reached the period of the greatest inflation in the world's history. We are at the flood tide. There must come the ebb, if history repeats itself. The question is, when the ebb comes, when the period of depression comes, when we are over the present period of inflation, are we very sure that six and one-half mills on the dollar will be sufficient to meet the requirements of the State? We have lived under a limitation of seven and one-half mills, and during that period we have gone through periods of depression and periods of inflation, and we have been able to meet the obligations of the State and the demands that have been made upon the State's treasury, but at one period, as was stated on this floor on yesterday, the Governor of Alabama was required to borrow five or six hundred thousand dollars, in clear violation of law, upon warrants to be drawn upon the treasury, in New York, to meet the temporary demands of the State.

Ought we not to be cautious when such doubts exist as are shown to exist in the minds of some of the members of this Convention? We are honored with the presence of two ex-Governors of the State of Alabama upon this floor. One of them has said that this situation burned into him a perfect knowledge of the financial condition of the State, and yet on yesterday, you found both of those men, who are taxpayers, and interested as much as any other citizen of the State in this reduction, voting against the reduction out of respect to what they considered the demands of the situation.

You have been furnished with figures emanating, it is said, from some officer, or some clerk, in the Auditor's department. The chairman of the committee has said to you that the Auditor of the State should have some knowledge of these matters, but has any one undertaken to show to you that this proposed reduction meets the approval of the Auditor? Has any one undertaken to say to you that it meets the approval of the State Treasurer? Ought not this Convention to go slow when the statement is made to it that not only the ex-Governors who are here in this Convention, and who should know something of the financial requirements of the State, but also the State Treasurer and the State Auditor doubt exceedingly the ability of the State in the future to meet all the demands upon the Treasury, if this reduction is made.

A sentiment has developed itself in this Convention. There was a matter before this Convention for consideration recently, the reduction of the tag tax upon fertilizers, and argument was made against the adoption of that provision, that it was one that should be cared for by the General Assembly. According to my recollection, the chairman of the committee who now offers this reduction, stated in an argument against it, that if he was a member of the General Assembly, he would vote for the reduction, saying he was in sympathy with the movement, but took the position that it was a matter that should not be incorporated in a Constitution, but should be relegated to the General Assembly for action. You were told upon that occasion, by a member of the General Assembly, that a bill passed the lower House at its last session, looking to a reduction of the tag tax, but it died in the Senate. Well, gentlemen, in this estimate that is furnished by the Committee on Taxation, $75,000 is placed as coming into the Treasury annually from this tag tax; $20,000 from the sale of school lands, and I state it to be a fact that the General Assembly and Governor Johnston raked this State with a fine tooth comb to find things upon which they could place a license tax, in order to meet the requirements of the State. Well, gentlemen, if we are to have a tax, let it be a direct tax that a man can see, rather than an indirect tax about which he may not be so well informed.

Now, Mr. President, believing as I do, that there was danger ahead, I voted against the reduction of this tax, by the Constitution, to six and one half mills, but out of respect to the opinion of many gentlemen who are on that committee, and who believe that a reduction can be had, I have introduced this resolution, that the tax limit shall be seven mills instead of seven and a half. So far as the latter part of the amendment which I have offered is concerned, I will not discuss it, because whether we fix the limit at six and a half mills or whether it be fixed at seven mills, I am satisfied that every member of this Convention would desire to require the General Assembly to set aside, out of the taxes levied, a sufficient amount of money to meet the interest accruing upon the bonded indebtedness of the State of Alabama.

MR. MALONE—Mr. President, I wish to say a few words against the amendment. I wish to state from a practical business standpoint, and as a school man, I do not think any gentleman on this floor has done more for the common schools that I have. I believe that I am as familiar with their needs and their requirements as any one. I have been not only on the Board of Trustees of the city schools, but the country schools as well. I wish to speak, not as coming from a county, or from a section of the country that possibly would be affected less by higher rates of taxation, but I wish to discuss it from practically the same point that the gentleman from Talladega, Mr. Graham, discussed it.

As I understand the working of the sixty-five cent rate I believe it will give more money to the common schools of the country than under the seventy-five cent plan. If I did not believe that I certainly would not favor it. Under the proposition submitted to us by the Committee on Taxation, there may be a provision in the article on taxation, I do not know whether it will carry or not, and do not wish to be considered as favoring it in its entirety, but I believe on a sixty-five cent rate, that possibly we would be allowed the ten cents under the working of that proposition, the entire ten cents if adopted to be devoted to the school fund. My county would not be affected, because we would work it out and we would get just as much one way as the other, but I wish to rise above local position. Ten cents on the hundred of course would bring more in some counties but it is preposterous to suppose that the entire ten cents paid into the State fund will finds its way back into the school fund. I was inclined to oppose the sixty-five cents without investigating it, upon the ground that I was not familiar with the figures, but I am assured by a member of the sub-committee, who is a practical business man, that he has made a careful investigation of the facts, as fully as he would upon any business proposition coming before him, and that there would be a margin at sixty-five cents of nearly ten cents to cover any deficiency. He assures me that it would actually be safe to reduce

it half as much more, but this additional amount is left to cover any danger.

Now I will not argue it except right square out on the school question. I come from a county, from a section, that has more children than any section of the State in the counties west of here, where triplets are born, and it is almost an exception there are not twins in the family. Therefore we get more money out of it than anybody else. We are interested in it, but so far as the schools are concerned, I am as confident as anything in the world that this will put the money into the schools. When it gets into the Legislature, some of it will go there, and some will not go there.

But the practical workings of it are what I propose to consider. The special taxation, if adopted in a proper form, will lead to an increased assessment of values. There is no question about that. I will not argue that longer. Nobody will deny that when we get to values at home, we will bring them out a little closer than when we are not interested in them. The gentleman who gives me these figures is from a community that voluntarily allows itself to be taxed, and the tax is paid without protest, 25 cents on the $100 for school purposes when only a protest would prevent the tax from being collected. That shows he is not prejudiced against schools but is looking at it from the standpoint of a cool business proposition. Now as to our promises, I propose to stand by the promises we made not only because we made them but because they are right and I still insist that every one of them is right. It was demanded of us to do something for the school, I mean the common public schools that the people of a community are obliged to go to. The larger schools will take care of themselves and there is no use about discussing that. We want to be able when we go back home to say "Here is something we have done that will benefit you. If we had no higher motive than that, that would be sufficient, but it is our duty and we have a chance to say to some of them, "Here is something that gives an opportunity to your child to improve himself." We no doubt will adopt something that will require an educational qualification for suffrage and that I am in favor of. I always object to putting a premium on ignorance and when we do disfranchise anybody in that line we ought to be able to say to them, "While you may be disfranchised, here is a school for your children that they may be educated.

MR. SMITH (Mobile)—My duties in committees have been such that I regret not having had an opportunity to give the close and earnest study to this matter that the dignity of the proposition calls for.

It seems to me it is a question of the greatest importance and one that ought to be acted on only with a certain knowledge of

the propriety of the action. Reading, however, the report of the Committee alone, I am induced from the figures there set out to believe that it is dangerous to reduce this rate of taxation any at all. Among the things that made an impression upon me in earliest life was the old story of the calculation of the milk maid and from that time down to this I have seen theorists trip in the grass and the pail of milk upon which they builded their theories mingle in the dirt—gone in an instant. I have never yet seen any man, however, skillful he might be, who could properly figure upon the unexpected contingencies that attend every transaction in life, the simple proposition of a trip upon a railroad, the construction of a house or the management of a nation. There are always those uncertainties, those unexpected contingencies that no man can foresee, and it is the failure to properly foresee these unexpected things that leads us into disaster.

Take the figures of the Committee, and what are they? They are that the collections exceed the expenses to the extent of $58,000. By figuring up the unforeseen contingencies and extraordinary expenses we have had to pay they say there will be $279,000. So assuming there will never be any other unforeseen expenses or other extraordinary obligations we will have $279,000 of surplus upon the present basis if values continue as now and if the legislative requirements as to license taxes can be maintained.

But, Mr. President, four years ago if these gentlemen had been figuring they would have assured us most absolutely that today we would have that $279,000 in our Treasury. I don't believe that next year or the year after we will have another Constitutional Convention. We may not in some years have to make appropriations to the normal schools. In some years we won't have the expenses of the Legislature, but as surely as time comes around the unexpected and extraordinary obligations that have arisen in the past from time to time will rise in the future and if any of those extraordinary occurrences take place, we will find that the calculations of the Committee have left a margin of only $58,000 to meet them, and that based, as I have said, upon an absolute certainty which they seem to assume, that not only will values not decrease, but that they will increase. In the calculation they also assume that there will be a reduction upon the interest of the bonded indebtedness of the State; and so there will probably unless this Convention makes the income from which creditors may expect to receive their interest and the payment of their bonds so narrow and of so doubtful character as to destroy confidence in the credit of the State.

But the very minute that we prophesy that we can get through on so many dollars and so many cents, when we fix it so that if our prophecies come true we barely will meet our obligations and if our prophecies fail in a single year there may be default, our creditors will not indulge in the optomistic views that we have

taken and will prefer, if they can get them, securities at the same rate but with a greater margin of security.

I believe at the present rate of taxation we can negotiate our bonded indebtedness as low as three and a half per cent., but the very minute you reduce the margin and make the credit of the State doubtful we impose upon ourselves a larger burden in the interest rate.

Mr. President, we are all more or less familiar with calculations based on future contingencies. Most of us, at any rate, have undertaken to build houses and any man who has ever undertaken to build a house knows that no human being can calculate for unexpected contingencies connected with it.

Now of the two problems which is the more difficult? In the construction of a building you have men who have made a study of that subject for life, they know and can calculate every piece of timber, every hour of work and approximately every nail that must go into it. They have the means of ascertaining to the fraction of a dollar if human capacity were sufficiently definite and accurate, what the building will cost. They have been trained in that business and no other and yet with that experience there is not one in the United States that I have ever seen or heard of that can make the calculation and make it accurately. And the calculation is short on one side and one side only. I never heard of an estimate of construction being larger than the actual cost. Now is it lack of skill? Not at all. Is it lack of certainty as to the duty before them? Not at all. It is simply because there is in all human transactions those unforeseen contingencies, those extraordinary expenditures, as the committee says, that no man can foresee and no man can take into calculation. Now, if we have a period of depression, if values were to decrease and business interests were to become such that they could no longer stand the burden of the privilege taxes that are imposed now and imposed expressly for the purpose of preventing a deficit in the State treasury, then we would meet a contingency that we have not foreseen, and we would be in a position where there would be no possible remedy.

It seems to me therefore that the question is not whether we shall reduce taxation at present but the question is shall we tie our hands upon the faith of a belief in the infalibility of the figures of the committee? Shall we put ourselves in a condition where if unforeseen contingencies arise this State must default in its obligations? If we have our limit of the rate of taxation as it is, there is no reason why the whole of that should be imposed. It is true it is said legislators will spend any amount of money that is in the treasury and probably they will, but on the other hand my experience is that they are sensitive about increasing taxation

and if they can be trusted about anything, they can be trusted never to levy greater taxation than necessity requires.

As I calculate on the report of the committee, it is nothing more than this: That the indebtedness due to the State is collected two months before is obligations mature. If, therefore, the circumstances remain the same and the income remains the same we can always meet those obligations. We can always pay so long as conditions remain unchanged. As a matter of fact we owe six hundred and seventy odd thousand dollars and we have that much to pay but that surplus in the treasury is the surplus of words and not of money.

For these reasons I am for not disturbing the rate but for leaving it for the Legislature to reduce it whenever it is possible. I believe they will reduce it when they can. They have done it in the past and I do not believe in fettering them for fifty years to come on the idea that the figures of the committee can never fail, that there can be no contingency, no extraordinary expenditure ever under the present circumstances. I believe it will be unwise for the Convention to reduce the present limit and I shall regret to see even a half mill taken from it.

MR. COLEMAN (Greene)—I regret very much this morning my physical condition as I had desired to present to the Convention the motives that influenced us in bringing in this report. The remarks of the delegate from Talladega (Mr. Graham) yesterday imputed to the Committee that they had selfish or personal desires to sustain this report because it was their report. I desire to state to the Convention exactly how we proceeded: When we came to consider Section 4 of the present Constitution and came upon the language that the General Assembly shall not have the power to levy in one year a greater rate of taxation than three-quarters of 1 per cent. on the value of the taxable property in the State, we also had before us this provision in the Democratic platform, that there shall be inserted in such Constitution a provision limiting the rate of taxation by State, counties and municipalities and that such rate of taxation shall not exceed the rate fixed by the present Constitution but a lower rate shall be fixed if practicable. Having these two propositions before us, impelled as we were in the discharge of our duty, we undertook to investigate to see whether or not these demands of the platform could be complied with. In our first estimate we wrote down the word certainty. Going over the question carefully it was the conclusion of the Committee that we could safely fix the tax rate at six mills, but in order to allow room for contingencies which seemed to be apprehended by some of the delegates to the Convention, we raised it to six and a half mills, giving the one-half mill to meet whatever contingencies might arise. The Committee had no desire in this respect so far as I am aware. We did not act hastily. We realized the importance of sustaining the credit of the State. We

realized our duty to sustain the schools and to keep faith with the Confederate soldiers. We took into consideration all of these questions and all of these demands upon the Treasury and it was our deliberate conclusion that the tax rate might be fixed at six and a half mills. I would not have any delegate to this Convention to conclude that the Committee takes upon itself the responsibility or any responsibility. What we propose to do and what we have desired to do, is to present to this Convention the data which influenced us in our conclusions. It is our intention that the responsibility shall rest with you and I am satisfied the delegate from Mobile who last addressed you has failed to hear the data furnished by the Chairman of the Committee on yesterday or day before yesterday, and I infer from his remarks that there are many in this Convention because of the noise and disturbance which prevailed at the time failed to understand precisely the data he presented to the Convention. It is our desire that you should have the facts before you and that the Convention draw its own conclusions from these facts, and if they are such as to authorize a reduction to six and a half mills we think the Convention in duty bound should so place it. If in the opinion of the Convention it ought to be seventy, let it be so fixed, the responsibility is with you. But at the same time we do know that the undisputed fact is that money in the Treasury induces appropriations, induces extravagance.

Delegates to the Convention, every man here, is able to pay the taxes imposed upon him without feeling it, but there is a class in this State, the bone and sinew of the State, as it were, who need protection, not that they would detract anything from the appropriation to schools, not that they would take one cent from the soldiers, not that they would endanger the credit of the State, but if these things can be preserved and still you can lighten the burden, you should do so.

MR. O'NEAL—Can I ask the gentleman who question for information?

MR. COLEMAN (Greene)—Yes sir.

MR. O'NEAL—I did not have the pleasure of hearing the remarks of the Chairman of the Committee in reference to this proposition and I desire to know whether in the estimate he made you took into consideration the loss in the poll tax which would arise from the adoption of the suffrage report, and also the extraordinary expense of registration as provided for in that report? Were those two items considered in the estimate he made?

MR. COLEMAN—I think if the delegate from Lauderdale will hear him when he makes the concluding speech on this matter, you will be able to come to a satisfactory decision on that point. My purpose in rising was to let the Convention know with what

care we were proceeding, that we were forgetting nothing of the obligations of the State, nothing of the duty to the schools, nothing of the duty to the soldiers, but bearing all these things in mind our conclusion was that the Convention could very safely reduce the tax rate to six and a half mills. We had also in view the point suggested by the delegate from Henry (Mr. Malone) that it would enable more money to go to those sections of the State, to the children in the agricultural districts, than could be under the present school plan. I don't think any man who studied this question can fail to perceive that there is an opportunity here presented by which those needy classes will be greatly benefited and profited under the arrangement the Committee has made more so than by any plan which has been proposed.

MR. SMITH (Mobile)—If the sixty-five cent rate had been in force this year, would not the expense have exceeded the collections some $208,000?

MR. COLEMAN (Greene)—It is very true that the Governor called a halt upon the legislature—

MR. SMITH (Mobile)—I am not referring to that. Your figures show $58,000 more than was expended. What I want to know is what would have been the result if, instead of seventy-five it had only been sixty-five. Would not that $58,000 have been wiped out and deficit beyond, and what would have been the amount of the deficit?

MR. COLEMAN (Greene)—There were extraordinary appropriations, but they will not occur any more in the future.

Mr. President, I don't feel in justice to myself that I can continue my remarks.

MR. LOWE—I ask leave to submit for the information of the Convention a communication received by me this morning in reply to an inquiry, from the Governor of the State and another communication received by me in response to an inquiry from the Auditor and Treasurer, and I ask for their reading.

The communications were read as follows:

Montgomery, June 29, 1901.

Hon. Robert J. Lowe:

My Dear Sir—In answer to your inquiry, I desire to say that in my opinion, fixing the tax limit in the Constitution at six and a half mills would be unsafe. I studied the situation during the last session of the General Assembly, and I thought then that the tax rate of seven and a half mills would hardly be sufficient to pay the appropriations made by the General Assembly. I have not studied the conditions since that time, but in a conversation with the Auditor and Treasurer, they lead me to doubt the wisdom of placing the limit in the Constitution at six and a half mills.

I fear that it might be unwise, particularly in view of the necessity which is upon us to refund the bonded indebtedness of the State, as it might affect an advantageous sale of more than eight million dollars of bonds.

I presume if a reduction in the limit is ordered, it will not go into effect until after the next fiscal year. Of course, if it is reduced to six and a half, to take effect after that time, the General Assembly can make appropriations accordingly, though it may have to assail seriously some of the special appropriations.

Very truly yours,

Wm. D. Jelks, Governor.

Montgomery, June 29, 1901.

Hon. Robert J. Lowe:

Dear Sir—Replying to letter of inquiry requesting our opinion as to whether or not the tax limit as fixed by the present Constitution can with safety, at this time, be reduced and if so, to what limit, we beg to say, that in our opinion, it would be unwise to reduce the present limit, from the fact that estimating that the increase of the valuation of property for the next fiscal year will reach in round numbers $276,000,000, the receipts from all sources at a five mill rate will amount in round numbers to about $1,-850,000.

The disbursement for the year ending September 30, 1901, is estimated to be $1,929,000. At a five mill rate for general purposes the expenses of the government, economically administered will about be met by the receipts. This has no reference to the pension and special school taxes.

Respectfully,

T. L. Sowell, Auditor.

J. Craig Smith, Treasurer.

MR. BANKS (Russell)—This is a question of grave importance, and it deserves the most serious and careful consideration of this Convention. We are not here to call in question the sincerity of anybody. The members of this committee who have made this report are doubtless as good and true men as can be found in the Convention, and we should have the utmost respect for their opinion, but the opinions of all men, of all the members of the Convention, are to be called in question as we consider the matters that are brought to our attention. The arguments in favor of a reduction of the tax rate, are based on the supposition that the prosperous conditions that have prevailed in Alabama for the past twelve months resulting in an advance in all the taxable property in the State will continue, and upon another supposition and that is that the State of Alabama shall have no occasion to call upon her people for yet larger demands for other purposes. The future as painted by our committee is full of promise, there is not a cloud to be seen anywhere on the financial sky, and we

sincerely hope and trust that this prophecy of the future will be more than realized, but we are reminded that the words of Burns apply with equal force to the hopes of men, as they do to the schemes of men, when he says, "The best laid schemes of mice and men aft gang aglee." We are confronted by facts, Mr. President and gentlemen of the Convention, facts that we must not ignore, facts that we must not forget, facts that we must undertake to provide for in some way. The business man who forgets the causes that brought disaster to his business so soon as there comes relief to him from some sudden wave of prosperity, will soon be again on the toils of misfortune and disaster. The facts that confront us here, that for the past number of years we have had the Chief Executive of the State urging, year by year or session by session, upon the Legislature to increase the tax rate, so that the demands of the State might be met, demands that were not based upon any schemes of extravagance, but demands that were based upon the most economical plan. Surely as members of this Convention we cannot complain that Alabama has based her plans for the public expenditure upon any wild extravagant schemes, surely as we have discussed facts here as to the pay of our Executive, as to the pay of the Supreme Court Judges, and as to the pay of members of the Legislature, and as to the general expenses of this State, surely, surely Mr. President and gentlemen of the Convention, we cannot conceive for a moment that Alabama has been wild and extravagant in her expenditure of public moneys. And yet in the face of all this economy, what confronts us as we read the Treasurer's report of September 30, 1900? This, that $169,000 is the amount of the deficit. Now, Mr. President, the voice of our lamented Governor had scarcely died away from these halls, and here we are confronted with this report of the financial condition of our treasury September 30, 1900, just a few months ago. These conditions have come, Mr. President, when the tax rate has been raised to the constitutional limit, when Alabama has been taxing the people to the very utmost of what the Constitution will permit her to do, and yet with these conditions, we are confronted with $169,000 deficit September 30, 1900. Now what other conditions are we confronted with?

MR. BROWNE—Will the gentleman permit a question?

MR. BANKS—In a minute.

MR. BROWNE—I understood the gentleman to say we were confronted with a deficit of $160,000?

MR. BANKS—$169,000, the Treasurer's report shows there was a deficit of that about September 30.

MR. BROWNE—It shows $184,000, I think.

MR. BANKS—That was the Auditor's report and the Treasurer's report shows $169,000, and he tells why it does not conform with the Auditor's report.

MR. BROWNE—Will the gentleman allow me to state what the Auditor's report said?

MR. BANKS—Yes.

MR. BROWNE—The Auditor says his report and the deficit of $184,000 is wrong; that in that he includes $50,000 covered into the treasury from the Convict department and $50,000 from fertilizer tags, and that the deficit was only $82,000.

MR. BANKS—Yes, but the Treasurer's report shows that. And right in connection with that report comes the voice of the Governor to the Legislature of Alabama urging them to economy and retrenchment and to make the expenditures come within the amount of the receipts of the State. But those are not the only conditions. We are confronted with other conditions. Alabama has planned, somewhat largely, but who will say that she must curtail her plans? She is planning more largely for the education of her children; she is planning to make some sort of compensation, to give some token of appreciation to that splendid class of heroes who lost everything in her service, whose silence has been more eloquent than words, as they have gone along and borne their losses without one word of complaint, but those are not the only things, Mr. President and gentlemen of the Convention; we are confronted with a rapidly-maturing indebtedness of eight and a half million dollars to nine million dollars.

Here are the creditors of Alabama almost at our doors to demand of Alabama that she shall pay what she owes. Are we dreaming? Are we under the spell of this beautiful vision presented to us by this committee, when, in the face of those things we talk about a reduction of the tax rate of Alabama? What will be the possible effect. And, Mr. President, when I say possible effect, the possible effects should demand the utmost consideration of the gentlemen of this Convention. The plea is sufficient when we say the possible effects; the plea is sufficient for a demand on this Convention that there should be some measures of protection devised against possible effects. That is one of the wisest methods adopted by the great business world that possible contingencies are provided against. But I say what are the possible effects? We have heard these pointed out to us in terms more eloquently and forcible than I can do. We have heard of the danger of our having to give up our plans for the future; plans in which the good of the State is so largely involved; plans that will result, perhaps, in a larger rate of interest as we undertake to issue new bonds in payment of bonds rapidly maturing; plans that would cause the State of Alabama, perhaps, an incalculable amount, because, as the State's credit is hurt, and as the State's resources are cut off, it involves the State in a continuing more and more difficult position, just as one misfortune after another results in involving every business man in misfortunes and dangers and

difficulties that are growing always more and more difficult for him to manage.

Mr. President, and gentlemen of the Convention, a reduction of taxes is always a popular movement; it is always a popular thing to do; but, Mr. President and gentlemen, it is not always a wise thing to do. Who are the most prosperous classes in Alabama, and, not only in Alabama, but throughout the whole length and breadth of this great land of ours. Are the prosperous classes those who pay the smallest tax rates? I hope the gentlemen of this Convention will listen to this: Are the prosperous classes of Alabama, and are the prosperous classes throughout the length and breadth of this land, are they the classes that pay the smallest taxes? As you go out from this place, out over this State of ours, not only over this State, but over all the States of this Union, what do you see as you go out into the rural districts, where the tax rate is the smallest? What do you see—often times you see desolation and ruin up to the very corporate limits of the great cities and towns. What produces this change?

MR. SENTELL—Will the gentleman allow a question?

MR. BANKS—In a minute. What produces this change? Not one thing except the power to provide for the general good and the power that is given by taxation, that is all. As you go throughout the length of our country, do you see the urban population, the tax ridden population, fleeing from these conditions out into the rural districts? No, sir, you see the rural districts greatly depopulated, people are leaving them and coming into conditions of greater convenience. The lowest tax rates are not always the most beneficial thing for the people at large.

MR. CORNWELL—Don't you think the effect of the reduction of taxation will be to increase the valuation. Don't you think it would tend to increase the valuation of property in the State?

MR. BANKS—I do not.

MR. CORNWELL—Don't you think the assessments would necessarily have to be increased.

MR. BANKS—Of course the assessments would have to be increased.

MR. CORNWELL—And wouldn't they fall upon the small tax payers?

MR. BANKS—Of course, but without adding one dollar of real value to property.

MR. CORNWELL—I understand that, but to meet the necessities of the State and counties.

MR. BANKS—Yes, sir, it would be necessary to do that.

MR. CORNWELL—Consequently the smaller tax payer would have the burden to pay instead of the large one.

MR. BANKS—Yes.

MR. CORNWELL—Would it not also increase licenses on corporations?

MR. BANKS—Of course the State would have to raise revenue. Now, there is one other thought, Mr. President, and that is this, this Convention has had before it the reduction or taking off of fertilizer tag tax. What has been the plea? To refer it to the Legislature. Now what are we doing? We are depriving the Legislature of the very power to do that which we think they ought to do. What must the Legislature do in the face of a reduction of the tax rate when there comes up a demand that the fertilizer tag tax shall be taken off. The legislator will say our hands are tied, the State of Alabama is obliged to have this money, there are no other resources from which it can be raised so the State of Alabama is compelled not only to keep that which it should not keep, but also put in the condition where it is obliged to adopt other methods of taxation, in order to meet urgent and imperious demands.

MR. FITTS—Mr. President and gentlemen of the Convention: I am not a member of this Committee on Taxation which has made this report. I am not disposed to be a partisan in this matter. But when this able committee after careful examination makes a unanimous report recommending this reduction in the limit upon the tax rate—and when it states that this has been done after the most careful examination and study of the conditions, that fact taken in connection with the pledge of the Democratic platform, upon which most of us were elected, should lead us to concur in the report.

MR. O'NEILL (Jefferson)—May I beg the gentleman's permission for an interruption?

MR. FITTS—Yes, sir.

MR. O'NEILL—I wish to say that this is not the unanimous report of the committee. I am a member of that committee and I did not agree with the committee as to this reduction in the tax rate. The committee made its report during my absence.

MR. FITTS—I am obliged for the correction. I would not intentionally misstate anything but I had heard it said, without contradiction, that this was the unanimous report of the committee, there was no minority report, and certainly from these facts I was warranted in making the statement I did. But even if it be that one member of this committee does differ from the able com-

mittee upon this proposition, the fact that the committee after the ablest and most careful consideration have recommended that this reduction is entirely possible taken in connection with the pledge made that we would make this reduction in the limitation upon taxation if found possible, persuades me that this Convention ought to vote not for the substitute offered by the gentleman from Hale to make it seven mills, but to sustain the report of the Committee and make it six and a half mills as the constitutional limitation upon the right to gather taxes. Now surely this Committee would not have come to this conclusion without the most ample and conscientious consideration. Surely then it must be within the range of possibility to make this reduction when it is reported by such a Committee and by such a majority of that Committee.

In addition to that let us look at the past history of the State and at the natural laws of human nature and see if they do not demonstrate that this is not only possible but in view of the pledge in our platform and in view of the expectations of the people of this Sate, if it is not our solemn duty to make this reduction in the limitation of the right to gather taxes.

Far back during Governor Seay's administration the tax was fixed far too low, four and a half mills. There was a gap between the income of the State and its fixed expenses. My personal acquaintance with the actual minutiae of State affairs began with December 1st, 1894, and I desire to state to you gentlemen of the Convention that the year 1895 was the hard year in the administration of the government of the State. By 1895 the pressure that had been upon the people in 1893 had reached the State government and 1895 was the hard year. In 1895 the tax values in this State fell to $241,000,000 of assessed values. The State administration then in office was limited to an assessment of five and a half mills for all purposes, and the government which was known as the Oates administration, then in office, found itself faced with a temporary deficit of $500,000. That was the result not of anything wrong that had happened in that administration, nor was it the result of anything that could be criticised in any administration. It was the result of a mistake in judgment made during the Seay administration, and the Oates administration found itself face to face with "a condition, not a theory." It had a definit of $500,000 and the right to levy only five and a half mills and with assessed values, owing to the panic, lower than they had been at any time in the recent past and lower than they had been since. From that day they have been going up.

Even under those conditions the State Government did not suffer. Even then, $500,000 behind on account of a mistake of judgment, with a tax limit of five and a half mills, that administration went to New York and borrowed on call $510,000, payable on the installment plan, borrowed it on the faith and credit of

Alabama and contrary to the Constitution, if you will, and against the opinion of Mr. Cleveland's Mr. Hornblower, borrowed it because it was well known in New York that when Alabama promises to pay it is good notwithstanding what facts or circumstances surround it, and I desire to tell you that that $510,000 was every cent paid, even in that year of pressure, with that low assessed valuation and with that five and a half mill limit, every farthing of that $510,000 was in bank in New York before it fell due. Now what has been done can be done again. The need for economy stared us in the face. Many and many a time in the councils of the officers of the State during that administration when we were discussing ways and means, we did not see how we could pull through, but there never did an appropriation fail for the want of money in the Treasury. There never was default in the payment of any interest on the bonds, because having to cut the garment according to the cloth, it was cut.

Gentlemen of the Convention, somebody has said you can depend on the Legislature to reduce this, leave the limit and let the Legislature reduce it. It has further been said that there is nothing so certain as that the Legislature delights to reduce taxation and will reduce it. I say to you that no law of nature is so certain as that when there is a surplus in the Treasury the Legislature delights to appropriate it. The way to administer a government economically is just like administering a house economically. Having an income, you must not go beyond it. Force upon a family the necessity of living within their income and they will live within it. Another proposition is that experience is the only lamp by which our feet can be guided. I speak from personal experience and I know that in those years of depression with valuations and assessment slower than they have ever been and with only a five and a half mill rate, we got through.

Now something has been said about the bonded indebtedness. It is true that the bonded indebtedness to the extent of about $8,000,000 matures and is the subject of refunding in the year 1906. But it is also true that right now, notwithstanding those bonds have but four years to run and they can only be attractive to investors on account of faith in the credit of the State, those bonds with only a coupon life of four years are selling for $110. The people who buy bonds delight in buying bonds that are not going to be paid for fifty years. Every man who knows anything about State bonds knows that the confidence of the world is best secured by having a low limit upon taxation, fair assessment of values, the interest promptly paid and by having no immediate intention of paying the principal. That makes the best bond the world knows anything about. So I say fix this limit as low as you can safely. That tends to bring out to assessment the hoarded and hidden property.

MR. SMITH (Mobile)—Referring to the price of Alabama bonds which you say is $110, is there not included in that price two and a half per cent interest, which will be due next month?

MR. FITTS—The July coupon matures July 1st, but with the coupon off, the price would be at least $108.

MR. deGRAFFENREID—How much were they worth in 1896?

MR. FITTS—$104 and $105.

MR. deGRAFFENREID—I sold some at $97.

MR. FITTS—Somebody asks me this question: "Did Alabama bonds depreciate in the Oates administration any more than other securities on account of the panic?" I desire to say they did not, that Alabama bonds have steadily increased and gone on up until they are selling at $110.50 or with the July coupon off, for at least $108. So there is no falling off of the credit of Alabama, and nobody is raising that point anywhere in the world. These Alabama bonds will not only be taken up by the holders if you want to refund them but the markets of the world will be ready buyers of Alabama bonds and this limitation will not hurt or impair the credit of the State so far as refunding the bonds. If this can possibly be done and the Committee solemnly says it can, it is your duty to do it. We all know when applied to private affairs that the only way a man ever has anything who starts with nothing is by knowing his income and living within that income and saving something out of that income. Therefore when you fix this income within certain limits, more than it was in the time of pressure, and say the State must live within it, the State will live within it and nobody will suffer and the public affairs will be administered as well as they have been in the past.

Now what are the future promises for tax values? There has been an increase in seven years from $241,000,000 up to $280,000,000 and they are gradually rolling on at a rate of increase of $15,000,000 a year. Is there any promise of that being stopped? Is there any promise of a backward movement in Alabama? Is there any promise of decay? Is there any promise of death and destruction to the great improvements and great material interests that are being developed? None whatever. All the sky is bright, all the land is full of promise and we stand on a sure footing counting continually on a conservative increase in the valuation of the property of the State. It is growing steadily at $15,000,000 per annum, but we can put it safely at $10,000,000 and we would be well within the bounds of conservatism then without any guilt of reckless extravagance. A surplus in the treasury invites reckless extravagance in expenditures. A State government is just like a family. If a farmer puts up a hundred and fifty

pounds of lard he will get along with it. If he puts up three hundred pounds he generally has nothing at the end of the year. So it is in all life and experience. Now some gentleman asks this question:—

MR. LOWE (Jefferson)—Can I ask the gentleman a question?

MR. FITTS—When I answer this question.

MR. LOWE (Jefferson)—I want to ask about that can of lard.

MR. FITTS—Mind out or you will get greasy if you fool with that. Some gentleman asks this question: "Is it not a fact that when there is a panic good bonds not only hold their own but rather increase in value because of the fear of capital to invest in other property not so sure?"

I rather think that is true. That has been borne out by the experience of Alabama in connection with Alabama bonds. The value has steadily increased from $96 in 1890, at which I understood the gentleman from Hale to say he sold some, to far above par, and the fact that they steadily increased in 1893, 1894, 1895 and 1896 bears of itself an affirmative answer to this inquiry.

MR. O'NEAL—Don't you know in the panic of 1893 money could not be borrowed on United States bonds as collateral?

MR. FITTS—That is true because money was so needed to keep the banks from being crowded that they would not let it go to those to whom it belonged.

MR. O'NEAL—And were not Alabama bonds below par?

MR. FITTS—Yes, sir; I believe so.

MR. LOWE—Now on that can of lard proposition, you say if the farmer puts up 150 pounds he lives on it and if he puts up 300 pounds he has nothing out of that left. What becomes of the difference?

MR. FITTS—The farmer is like some other people, whon he has plenty he is prone to be profligate in using it, but if you give him just enough and no excess, he will struggle to live within his means.

MR. LOWE—So far from the Legislature squandering all the money in the treasury that they could, is it not a fact that, consistently as appears by the report the tax rate was reduced from seven and a half to four, while the tax limit was at seven and a half?

MR. FITTS—The gentleman does not quote me correctly. I did not say this Legislature squanders all the money in the

treasury. I stated that a gentleman had said in argument that there was a fixed law that there was nothing the Legislature better delighted in than to reduce the tax rate. I set up against that another fixed law which the experience of mankind certainly will show is equally as fixed, that there is nothing the Legislature so delights in as to appropriate a surplus if one there be.

MR. LOWE—To which Legislature in Alabama does the gentleman refer as appropriating extravagantly from the treasury?

MR. FITTS—I have not said any of them.

MR. LOWE—Will the gentleman designate which?

MR. FITTS—No, sir.

MR. LOWE—Will the gentleman not say the last Legislature came more clearly within that definition or designation than any other in the history of Alabama?

MR. FITTS—I could.

MR. BANKS—Will the gentleman permit me a question?

MR. FITTS—Certainly.

MR. BANKS—Do you think a reduction of five cents in the price of cotton would affect the tax value of farming land in Alabama?

MR. FITTS—To a slight extent.

Now I have concluded what I had in mind to say. It was simply to call attention to the fact that I did not expect this reduction would be found to be possible, but when the report of a strong committee, practically unanimous, calls attention to the fact that it is possible, I think it brings about a corresponding duty to stand to and perform the pledge given to the people and what they expected us to do if we found it possible. They were willing to leave that to our judgment, and I think, after hearing the committee, we have found it possible. With our feet guided by the lamp of experience, with better times on hand, with vast prosperity before us, with Alabama marching forward and onward and upward, with its courage pure, with its hope high, with its valuations of property increasing, and with continuing prosperity on all sides, I think we can safely set the limit as fixed by the committee, and I hope this House will vote to do so.

MR. WEAKLEY (Lauderdale)—It is with a great deal of difference that I undertake to address this Convention after listening to the farmer from Tuscaloosa.

MR. FITTS—Well, I am one.

MR. WEAKLEY—I desire not to detain this Convention with an attempt at oratory, but I do desire to say that in fixing

the limit upon the rate of State taxation at 65 cents, that this Convention, in my opinion, is doing a very dangerous thing. In listening to this debate, I am reminded of a story I once read in the school book, where a certain English nobleman gave notice of the fact that he desired to employ a coachman, and upon a certain day the applicants for this position appeared before him, and he asked each one the question: "If you were my coachman, and in my travels it was necessary to drive along a dangerous precipice, how close could you drive to the edge of that precipice without falling over?" One man said, I could drive within six inches; another man said that he could drive within ten feet; still another said that he would drive away as far as possible. The last man was employed. It seems to me, gentlemen, that the chairman of the Committee on Taxation is trying to drive the State of Alabama within six inches of a precipice and I for one will refuse to be driven by him. The gentleman from Tuscaloosa (Mr. Fitts) has held the high and honorable position of Attorney-General of the State, and in his representative capacity had much to do with engineering the State of Alabama through a period of business depression, and he tells you how they cut the coat according to the cloth. He tells you that the best evidence of the desirability of a State bond is a limitation upon the rate of State taxation, and I say to you, gentlemen, and I claim to have had some experience in such matters myself, that there is only one thing that detracts from the value of a State, or municipal bond, and that is a limitation upon the power of the people to pay that bond. This morning when the roll of Committees was called for reports, it was announced that the Committee on Suffrage was ready to report, and immediately there was a hush over this hall. It appears that some of the members think that the question of franchise in this State is the most important in it, but I say, gentlemen, disguise it as you will, that the most important matter before this Convention is the matter of taxation. Do whatever we may with the suffrage and other questions, the question of the ratification of the Constitution which we are to make is going to be decided upon how we deal with the matter of taxation, and the State's financies. The greatest thing that this Convention has to deal with is the State debt, $8,000,000 or more falling due in 1906.

MR. ROGERS (Sumter)—Will the gentleman permit me to ask him a question?

MR. WEAKLEY—Certainly.

MR. ROGERS—You said something about the tax having a great deal to do—do you think they would refuse to ratify the Constitution if we reduce the tax rate to six and a half mills?

MR. WEAKLEY—I say in answer to that proposition, that no Constitution deserves the support of the people of Alabama which will endanger the credit of the State, and I say that any

Constitution which compels me as a citizen of this State to become a party to repudiation and default of the State debt will not receive my support. The distinguished ex-Governor of Alabama has told this Convention how he went to New York and tried to refund this debt, and I say to you gentlemen, that in 1906, if we adopt this 65 cent limit, instead of having the bankers and the bond buyers to come to this Capitol, we will have to send the Governor of the State and his Attorney-General after the money, and I will promise you this, that when the proposition of refunding this debt is laid before them, the first question that the moneyed men will put to you is, "You have passed an act whereby you can come here and get our money and you have tied the hands of the people, you have put a limit upon their power to pay."

MR. ROGERS (Sumter)—Will the gentleman allow me to ask another question right there?

MR. WEAKLEY—Yes sir.

MR. ROGERS (Sumter)—Would it not be better to leave this whole matter of fixing the rate of taxation to the Legislature hereafter?

MR. WEAKLEY—No constitutional provision whatever?

MR. ROGERS—That is what I mean.

MR. WEAKLEY—I will say in answer to that that I am in favor of a constitutional limitation upon the power of taxation, but I believe that there should be some elasticity, I believe that the Committee on Taxation in this case has shaved the matter down to the very lowest possible notch, to the very smallest possible amount to which we can go, and in the event of the unforeseen circumstances so ably presented by the gentleman from Mobile, that it will put it beyond the power of the Legislature to raise any more revenue. We have already said that the Governor of the State of Alabama shall have the power to raise only $300,000 by temporary loan. It has been written in the report of the Committee that there shall be no increase in the bonded debt, and now we have limited the rate of State taxation, or about to limit the rate of State taxation, to the very lowest possible figure. I say, gentlemen, there should be some margin, there should be some elasticity in this limit, and there should be some room to provide for emergency so the credit of the State may be maintained. We were told a few minutes ago how the Governor and his Attorney General went to New York and borrowed $500,000 in spite of the Constitution, and I say, gentlemen, not intending to discredit the efforts of these able men, that unless it had been in the Constitution that the Legislature could levy a tax to pay back that money they never could have borrowed one dollar, and the only reason why they were able to borrow that immense amount of money was that the tax rate was only 45 cents, where-

as the Constitution allowed them 75 cents, there was a difference of thirty cents between the actual levy and that allowed by the Constitution to pay this money.

MR. OATES—Will the gentleman allow me to correct him?

PRESIDENT PRO TEM. (Jenkins)—Will the gentleman permit an interruption?

MR. WEAKLEY—Yes, sir.

MR. OATES—At that time the rate was five and a half mills, but the act of the Legislature passed just before my predecessor went out of office increased this one-half mill, from five to five and a half mills, but that, of course did not have effect until the next year.

MR. WEAKLEY—I did not have any figures, I was going by the figures stated by the gentleman in argument. But the proposition I was making was that there was a margin between the tax rate and the tax limit of the Constitution sufficient to pay off this debt. Now we have tied the hands of the Governor and given him only the right to raise $300,000 for temporary purposes, and we have tied the hands of the Legislature to a 65 cent limit, and suppose some emergency comes, then what is going to become of the interest on the public debt. There is just one more proposition that I desire to submit. The distinguished Chairman of the Tax Commission has brought in here a report stating that at a given time there will be a considerable surplus in the treasury. I want to ask the members of this Convention if it is their intention to continue indefinitely the burden of an $8,000,000 debt upon this people? I ask you gentlemen as business men and tax payers are you going to perpetuate upon the people of Alabama a debt of $8,000,000 calling for nearly a half million dollars interest, and make no provision for paying it? I say, gentlemen, that if these figures are correct, and if this surplus exists in the treasury, it will be the duty of the Legislature to use that money in the purchase of Alabama bonds, and thus reduce the annual interest charged.

MR. O'NEAL (Lauderdale) — There is no provision for a sinking fund.

MR. WEAKLEY — As the gentleman suggests there is no provision for a sinking fund by the State of Alabama, no provision for a sinking fund by any county in Alabama, and no provision for a sinking fund by any city in Alabama, and here we are piling up the burden of debt, State, cities and counties that we intend to perpetuate upon the people.

MR. ROGERS (Sumter)—Do you favor a fixed amount of tax to be set apart for a sinking fund to pay our liabilities—would you favor such a fund?

MR. WEAKLEY—I believe I would—how else are you going to pay it? A similar proposition exactly has been inaugurated in the State of Tennessee and that State is today paying out thousands of dollars, retiring the public debt and thus already has reduced the annual interest over one hundred thousand dollars.

MR. ROGERS (Sumter) — Will you allow me to interrupt you again?

MR. WEAKLEY—Yes, sir.

MR. ROGERS—I understand we have to have a sinking fund, but the difference between a sinking fund in general and one which says a certain definite amount shall be set aside each year, not what is left over after you spend what you want to, would you favor that?

MR. WEAKLEY — Yes, sir. We can meet that just like Tennessee where they have a law that provides that at a certain stated time certain State officers shall meet in consultation and shall make calculations and if there be a surplus in the treasury over and above what is necessary to carry on the government that that sum shall be converted into the sinking fund. Now, Mr. President, just a word more. It seems to be well understood that we are approaching the point of a refunding of the bonded debt. I submit, gentlemen that no man can tell five years in advance what will be the rate of interest. It is true that today this country is upon a 3 per cent interest basis, and if the proposition of refunding the State debt were to take place today, I believe that with the present limit upon the rate of taxation, we could refund this entire debt at 3 per cent. Are we going to throw away the opportunity of accomplishing that in 1906, and are we going to do that gentlemen upon the opinion of any one man, as was stated yesterday a man who might be mistaken. It is estimated that by reducing the rate of interest we can in that way reduce the taxes better than any other, and it seems to me, gentlemen, that that is the safest proposition yet presented to this Convention.

MR. KIRK—As a member of the Committee on Taxation, I desire to say that we took upon ourselves the duty of investigating this question now before the Convention. We did not realizing the importance of the position and as stated by the gentleman from Greene who is also a member of that Committee, we did it recognizing and having before us the pledge of the Democratic party that the limit of taxation should be reduced if it could possibly be done. After a careful investigation of the matter and consultation with officers in the Auditor's office we came to the conclusion that the State could very well reduce the tax limit and we reported to that effect. Not only that but we have submitted the facts from which we drew the conclusions. These facts have been published and circulated among the delegates of this Con-

vention and during the argument of this question not one man has undertaken to say that the figures or the statement presented by the Committee are erroneous.

MR. O'NEILL (Jefferson)—May I interrupt the gentleman? I understand him to say that the Committee's report had not been stated on the floor to be incorrect. The gentleman from Lauderdale says the figures are not correct and I wish to say in answer to the gentleman from Tuscaloosa that I voted against that section of the report about which we are now talking and I intended to make a minority report, but the Committee, during my absance one day railroaded the report in to prevent making a minority report. Later I will give the reasons why I did not make a minority report.

MR. KIRK—I have never understood there was any disposition among the delegates to make a minority report. There was nothing said or done in my hearing to prevent any member of that Committee from making a minority report. But that is not an answer to the question. I assert that that statement has been published and laid before the delegates of this Convention and no man has undertaken to say they are wrong and to point out wherein they are wrong. Now, Mr. President, if the statement presented by the Chairman of this Committee is correct, what is the most solemn duty of this Convention? Are we to ignore the pledge made by the Democratic party? Are we to say that notwithstanding the facts placed before us show that we are annually piling up a surplus in the treasury, we will continue to pile that up and refuse to obey and carry out the pledge made to the people of Alabama that we would reduce the tax rate? I submit we cannot afford to violate the pledge that we have made. There is no doubt in the world that if we had an eight mill rate and every cent of it was levied and collected, the legislature would find a place to spend the money. But that is not the policy we should pursue. I am in favor of the State's affairs being conducted on an economical basis. I do not advocate stinginess. I advocate economy. Now, Mr. President, if every officer in the State should come forward and say that he thought his salary ought to be increases, if there was a surplus in the treasury, piling up year after year, there is no doubt in my mind but what the legislature would increase many of them.

When we saw there was an opportunity of reducing the tax limit and at the same time arranging it so that each county may out of that one mill give aid to the schools, to which we are all friendly, we accepted it and we have given the opportunity to the people of the different counties to increase their public school fund, and as I said on yesterday this was clearly in line with the idea of one of the best educators in the State, Dr. Phillips of Birmingham, and was also endorsed by the Teachers' Association. We are taking no backward step in education in this movement.

Now I cannot conceive for one moment how we as the representatives of the people can afford to go before them and say notwithstanding the fact that a surplus is annually being piled up in the Treasury, we will not reduce the tax rate.

Now I may say to the gentleman who spoke so eloquently on yesterday in regard to the expenditures the State ought to make in the improvement of the Capitol that that was discussed by some of the Committee and we were satisfied that out of the great amount of surplus accumulated in the Treasury it would not be long until the Legislature could see its way clear to make the necessary appropriation for the improvement of this property, and you need have no trouble on that question. You need have no doubt but what every obligation the State owes will be paid, that the school appropriations will be increased. This period of progress is growing and it will continue to grow and by the reduction of the tax rate the tax values of the property will be increased and I ask that you support the report of the Committee on this proposition.

MR. OATES—I had not intended to address the Convention upon this subject, but since it has taken such a wide range and allusions have been made to the deficiency in the Treasury in consequence of several different things, a few brief remarks, especially on that point by way of explanation may not be amiss. I had not investigated these things until a short time before I had the honor of being inaugurated as Chief Executive, but I conferred with my predecessor then in office and examined into the acts of the Legislature, and I found this to be the fact, that the aggregate amount of tax values of the property of Alabama in the last year covering Governor Seay's administration, amounted to about $275,000,000, and the tax rate then existing it brought into the Treasury a greater amount of money than was necessary to meet all the exigencies of that administration. Consequently that official recommended to the General Assembly a reduction in the tax rate, and it was made too low. It was put down to four mills, and at the same time with an exaggerated idea of the surplus and the vast income that the State would receive that very session of the Legislature made heavy appropriations out of the usual line. One I recollect for $75,000 or $100,000 for the erection of additional accommodations at Talladega. Other appropriations were made with the same idea of the abundance of revenue and my predecessor soon found himself short of funds. There was another cause operating. Just after that time began the panic and the amount of taxable values began to fall and they fell with the lower rate although it was increased by one or two acts when at the time I succeeded to the office the deficiency was very considerable. My predecessor had found it necessary in order to pay the school teachers to effect a loan in New York of $500,000 and I found the State in this condition. His administration had been

as economical as it could be, and he was in no wise responsible for this miscalculation on the part of the Legislature. Before his retirement he recommended to the General Assembly an increase in the tax rate of one half a mill and that was done, so that when I came in I found it 55, but as everyone knows when an increase or decrease in the tax rate is effected by the Legislature no perceptible difference is discovered until the next year thereafter. Now a great deal has been said by newspapers and politicians about a reduction of the deficiencies found in the Treasury. Indulge me for a moment and I think I will show just how that was accomplished. Finding that it was necessary to do the same thing that my predecessor had done I went to New York and effected a loan of $510,000 after having paid off the loan of $500,000 due when I came in. That was necessary just as the former was to maintain the credit of the State especially at home by paying school teachers and meeting the school expenses. They were somewhat delayed in obtaining their money, but it came in good time. Of course that one half mill increase told considerably the first year of its operation but it did not begin to wipe out the deficiency but the second year it reduced it to an almost nominal amount and the next year after I went out of office from the same source the deficiency was practically extinguished. It was done by the people and by the taxation imposed upon the people, and that is the way the State gets its money. It is not what any man does, it is what the people do in obedience to the law.

Now something was said about the price of bonds. The bonds did not depreciate because they were considered a safe investment. Financial institutions in New York and elsewhere regarded this deficiency as but temporary, and that there was no danger of repudiation or a failure to pay the interest but that the State would get on its feet again. They, of course, observed the increase in the rate of taxation. Now, I want to say just in this connection with reference to what we have in hand or the income from the citizenship of this State, every tax payer in the State has a personal interest in it, but their patriotism is rarely so high as to sanction exorbitant taxation. They don't want that. I like to see taxes reduced. I feel interested in that, and I would like to see taxation by cities and towns better regulated than in the present Constitution.

But there is one thing about which you can trust the General Assembly. Now, I distrust that body or any Legislature elected by the people in some things. When it comes to voting a large debt or spending much money, I distrust anybody. I distrust them about paying the Governor a competent salary, and, therefore, on this floor, I have advocated that this body should fix the amount of annual salary for the Governor, because I know how loath a legislature body is to make an expenditure of that kind. But there is one thing in which you can trust them. I don't

know that I ever knew of an exception, possibly there may have been one. It is said that our last Legislature was more extravagant than any other. Their acts show for themselves, but they acted just like men always do whether in Congress or in the State Legislature. You pile up revenue in the Treasury beyond the need of the Government, and any body, Congress or a Legislature, will make appropriations. They want to get the surplus there. That was the case in 1829, when there was $29,000,000 in the treasury of the United States, for which there was no use, and Congress undertook to pass an act then, or soon after, to divide it up among the States accordinng to population. They found the President would veto it, that taxes lawfully collected never leave behind any implication of a right to refund any portion of them. So they could not pass such an act as that, but they devised a scheme, and they divided it with the different States according to population, and that is the source from which we got this, over half a million dollars, upon which we are paying a permanent interest to the educational fund. It is money that we got from the general treasury which we are supposed to be liable to pay back at any time, but which never will be paid back. Now that is always the inclination where there is a surplus in the treasury, the Legislature, whether National or State, is going to get it out and that accounts for the recent action of the last Legislature that appropriated more money than the treasury would furnish, and the delegate from Lee, who sits in my rear, introduced a bill in the Senate to pro rate the appropriation, and it was passed for that purpose, so that they could not, in the aggregate, spend more money than was in the treasury. But there is one thing on which we can always trust the Legislature and that is to reduce taxes whenever they can.

MR. ROBINSON — Didn't Governor Johnston recommend a reduction of taxation at the last session during his administration, and didn't the Legislature decline to do it?

MR. OATES—Probably he did. Governor Johnston's policy, however, all through his administration, was to pile up every dollar he could in the treasury. I have not a question that he was honest in it. He thought that was the great thing to do and never spend any money.

MR. JONES (Montgomery)—I would like to ask the gentleman if he counts it a surplus when there is a large amount of money in the treasury that is not immediately due and payable, but which will be paid out in the orderly course of disbursement.

MR. OATES—I never count anything as certain until it is there.

MR. JONES (Montgomery)—But do you call it a surplus if you have a million dollars in the treasury on the first of Janu-

ary and shortly after the first of October you will have it all paid out?

MR. OATES—No indeed. There has been a great deal said, Mr. President, in reference to our State system of bookkeeping, and it is a little complicated. Reports have been made and investigations, so called, had on supposed deficiencies in the treasury. For instance take the first of January or any particular day in the year, and find the amount of the State debts at that time, add the amount which is in the treasury at that time, and take the one from the other is no test. Not at all. The fiscal years, from the first of October to the last of September is the test. Taking the cash assets of the State, as received, and paying all of the debts, if anything is left, that is a surplus, and nothing short of that, and if there is not cash enough to pay the debts, that is a deficiency. That is a plain proposition which everyone ought to understand.

I was proceeding to say, sir, that there is one thing upon which you can depend on the Legislature, and that is to reduce the rate of taxation, whenever they think it can be done, and sometimes they strain the point to do it, just as in the case, when they had an abundance of income, at the beginning of the administration of my friend.

Now, sir, when we go back and look at the history of legislation in Alabama, we find this most abundantly verified. Let me call your attention to the fact that every trust fund that has ever been turned over to the State of Alabama has been covered into the treasury and used for the general purposes of the State. You go back to the University, richly endowed by lands, worth millions of dollars, and part of it went one way, and part of it went I know not where. Then go to the other great school, Auburn, and the bonds are down there now in the treasury which were issued from the State to that institution. It had land script. I remember I had the honor of being a represeptative here and tried my best to get them to send a discreet man to locate that script on the rich lands in Kansas and Nebraska that are now worth fifty dollars an acre, but they could not see it, and disposed of it at one dollars and a quarter an acre, and issued bonds, fifty odd thousand dollars, bearing eight per cent., and those bonds are down there. That is the basis of the appropriation now from the State treasury to that college. Then in the sale of the sixteenth section land, every dollar realized from it has been covered into the treasury. Every trust fund that was ever confided to the State of Alabama has been disposed of and covered into the treasury and used for the general purposes of administration.

Then members of the Legislature, taking advantage of that fact, have gone home at its adjournment, and said, "ain't I a statesman; don't you see we have reduced your taxes," but they have never told anything about this debt they were contracting

by the conversion of trust funds, and leaving future generations to have the interest charge to be saddled on them. To reduce the taxes, they are crazy on that, and my friend, your committee is following their example, in trying to reduce the taxes in this instance.

MR. WHITE—How much trust debts do we owe now?

MR. OATES—I have not figured it, but if you will look at my special message, it will give you the figures. From these various sources it is two or three million dollars.

MR. BROWNE—Could we pay off that trust fund if we wanted to? Are we not bound to continue to pay the interest on it?

MR. OATES—I do not think we are anxious to pay it, and as far as I am concerned, now it is contracted—while I do not think it ever ought to have been—

MR. BROWNE—But I ask the gentleman if we could pay it, if we wanted to do so.

MR. OATES—We might, in the course of time, but we could pay it at once, no such amount as that. And as to the bonded debt, I am just the same way about that. Now that it is on us by no fault of those now living, I do not think that we ought to be taxed to death to pay it. Those who come after us, fifty years hence, will know nothing about it, if we work ourselves to death and tax the people to the utmost limit to pay off the debt. When the rate of interest is so low, I am in favor of refunding the debt and issuing bonds to become due fifty years from now, paying a low rate of interest, rather than over-taxing our people at the present time. It is to be hoped that fifty years hence the people of the State will be much wealthier than we are now, and will be able to meet that question and deal with it, without saddling it upon our people today.

Now, as to the proposition before the Convention. I state in the beginning that I liked the idea of the reduction of the taxes; I liked it as a tax payer, but I am willing to stand the taxes, though heavy, wherever they are necessary for the public good. In this case I doubt the propriety of a reduction of the tax rate and I will tell you why. The tax values fell off, as I stated before, from two hundred and seventy five millions of dollars down to two hundred and forty-one millions. It is now climbing up again. Times are good now, but we do not know just what is coming, and had not we better have a safe limit? I am in favor of a tax limit, but ought we not to have a safe figure, so that if any reverses come, we would be sure that we would be able to maintain our credit, and get money enough by taxation to meet all of our obligations? I think so. I am very much inclined

to vote for the proposition of the delegate from Hale, which is a reduction of one half mill, from seventy-five to seventy, but I am not prepared to go further than that down the scale, and really I would not object to retaining it at its present rate.

Now it is a question of uncertainty. No man can tell just what the income will be from anything in our treasury, two, three or five years hence. It is to be hoped, and judging the future by the past we think we will keep on improving and acquiring property, and be able to stand a lower rate, and go on a lower rate of taxation, but when the legislatures have nearly always from first to last been anxious, even by using the trust funds of the State, as I have shown you, for administration, to get a chance to reduce the tax rate, and probably get an endorsement from their constituents, when that is the case, that is one instance in which I feel like I can trust the legislature. I cannot trust them about the Governor's salary, nor about buying these grounds here and improving the Capitol. I distrust them on that, its too big a thing for them, but they nearly all of them want to be returned, and they want to please their constituents.

MR. O'NEAL—I want to know what effect, in the gentleman's judgment, would this limitation on the power of the legislature have upon the refunding of the State debt? I am sure the Convention would be glad to have your views on that question.

MR. OATES—I do not think it would effect it materially, but if any additional assurances are needed that the State will maintain its credit, it is safest to leave it at its present rate.

MR. BROWNE—Will the gentleman allow a question?

MR. OATES—Certainly.

MR. BROWNE—If there were added to this clause fixing the rate at sixty-five, a provision that a sufficient amount thereof should be levied specially for the purpose of paying the interest upon the bonded indebtedness, and appropriated to that purpose exclusively, would that not answer all purposes?

MR. OATES—It would indeed, and since the delegate has asked me that question, it carries me back to the Convention of 1875. In that Convention I conceived it to be a good idea, and offered an ordinance, and tried to have it adopted, that there should be a separate tax levied every year for the payment of the interest on our bonded debt, so that the people could see and know just what they were paying.

MR. O'NEAL (Lauderdale)—The question I wished to suggest was this: Would not that statement be an admission on our part that we had a doubt as to wether we could meet the interest on the State debt by this reduction; would it not be the expression of a doubt which might have a deleterious effect?

MR. OATES—There wouldn't be much doubt when you required the levy of the tax to pay the interest.

MR. O'NEAL (Lauderdale)—We haven't such a provision now in the Constitution, and wouldn't the insertion of such a provision be an admission on our part that this reduction on our part might endanger the ability of the State to pay the interest on the State debt?

MR. OATES—It might raise a suspicion in the minds of some, but I think people would be sure they would get their money.

MR. BROWNE—Is it not true that in a very great many States the Constitution provides for a special tax levy to pay the interest upon the bonded indebtedness?

MR. OATES—I think so, and I think it is wise.

MR. ASHCRAFT—The statement read from the Auditor and Treasurer this morning indicates that in their opinion the reduction will result in an inability to pay the interest and the special assessments for the solders' fund and the school tax. Now if a provision of this kind is appended to this section, will there not necessarily spring up in the mind of all the school teachers, and the friends of public education, as well as the soldiers, and their friends, a reasonable uneasiness as to the result of this Constitution on their interests?

MR. OATES—I cannot say about that. I do not know how they would regard it. I think it possible they would be safe, but to provide against contingencies that may arise in the changes of time and circumstances, these are the considerations which move me to oppose the reduction as proposed by the Committee.

MR. ROGERS (Lowndes)—Mr. President, a reduction from seven and one-half mills to seven mills as the maximum rate of taxation is a fulfillment of the pledge to the people of Alabama. The difference between six and a half and seven mills, would leave a margin to the State out of abundant caution to protect our credit, and for the maintenance of our schools in their onward progress as mapped out by the growth of Alabama. A few years ago when cotton went down to four and five cents taxable values in the State of Georgia decreased fifty millions of dollars, and I am informed that they taxed their schools and churches for revenue. It seems to me that we should be cautious and provide for all contingencies, such as the shrinkage of the poll tax, and allow for the reduction of the drastic revenue bills of the last Legislature for the creation of revenue for the State. Mr. President, when our Governors fail to recommend a reduction to six and one-half mills, it seems to me we should go slow in this direction, and I am unwilling to vote for any lower rate than seven mills.

MR. BROWNE—I unwillingly yielded this morning—

MR. JONES (Montgomery)—I hope that the gentleman will allow some of us to speak. I would like to speak, if for but five minutes. I never called the previous question on anybody in my life, especially if I was Chairman of the Committee.

MR. BROWNE—If the gentleman only wants five minutes I will yield.

MR. JONES—It is with very great reluctance that I take part in this debate, and nothing but a profound conviction that we will make a mistake no matter how well intended, if we reduce this tax rate that will obligate us for years to come, impels me to state my position. There never has been a reduction, if you rely upon the figures of the advocates of reduction, which they could not prove would be a success.

In 1889 some of the best financiers of this State said that it was an era of prosperity, and that we could safely cut down the tax rate to four mills, and add $100,000 to the school fund, and still have a surplus in the Treasury, and yet, it was not twenty-four months after that when events indicated that there never had been a reasonable ground for a suspicion that they could do that and maintain the honor of the State and provide for its wants. I beg to say to some of my friends who perhaps have not investigated the question closely, that there never has been a dollar of surplus in the Treasury of Alabama since Governor Thomas Seay went out of office in December, 1894. You may have a million or two millions of dollars in the Treasury on January 1st, but if you have debts that are coming in and which require an exhaustion of that money by the 30th of September, it is no more a surplus than if I run my hand in my pocket and say I am a hundred dollars ahead of the world, when I owe a note four months hence for $200 that is not yet due. My friends are mistaken then about any surplus—

MR. BROWNE—Allow me to make a remark. The Committee has not said there was any surplus. They say there is an actual cash balance that would not be expended as long as the State continued in business, and continued to collect up in October, November and December of the following year what was charged against the cash balance, but that there would be an actual surplus in addition to that actual cash balance on the 1st of of October, 1902, of some three hundred and odd thousand dollars.

MR. JONES (Montgomery)—I am not after the Committee, Mr. President. I think their motives have been high and that they have discharged their duties conscientiously, and with the best lights before them, but we have heard a great deal in the debate here about a surplus in the Treasury and the piling up of money in the Treasury. I want to make this suggestion to the delegates. We cannot foretell what calamities may come. When

the State heretofore dealt with a deficiency, its Governors went to New York and said under the Constitution of the State we have a margin of two or three mills, and here is a resolution of the General Assembly in Alabama pledging the honor and credit of the State to the faithful payment of its debts; but if you cut this rate down to six and a half mills, barely leaving a margin, and any accident or calamity happens, and your Governors go into the markets of the world they will say we do not doubt your honor, we remember when you sent gold through the blockade to pay your interest; it is not a question of honor, but you are up to the limit, and the Constitution will not let you go any further.

Now, it seems to me, without going into figures and details, that we are running a risk, if we put this cast iron limit in our Constitution, of hitting two classes, which God knows no man on this floor desires to hit; that is of cutting off the one mill tax for the old Confederate soldier, or something off of the one mill tax additional for the public schools.

MR. BROWNE—Will the gentleman allow one question?

MR. JONES (Montgomery)—Yes sir.

MR. BROWNE—Can the gentleman point out one single, solitary error or miscalculation in the statement published a week ago upon which the Committee predicated this reduction?

MR. JONES (Montgomery)—I think if I had the figures before me I could, but I am taking the general observation and experience of legislators in dealing with the matters of this sort. I remember very well, a gentleman now living in Lowndes County, Chairman of the Finance Committee, and the gentleman who pushed through the reduction to four mills, was just as positive, just as conscientious, and far more enthusiastic than the chairman of the Committee on Taxation, that it could be done, and that it ought to be done, and they did it, and for ten years afterwards this State has been struggling with a deficiency, and at times almost in abject poverty. Why, Mr. President, there was a time when it was doubtful whether we could feed the insane, and the deaf, the dumb and the blind. There was a time when it was doubtful whether we could get money to pay our own citizen soldiery who were engaged in enforcing the law during a long and tremendous turbulent period in the mineral regions. We had to dole out things like a farmer does sometimes, when he has not enough to last him and corn enough to do, and he had to weigh it and calculate how long it will be before he can cut down fodder to feed his stock. She was in that condition. The Legislature can make this reduction, and they are prone to cut down the tax rate whenever they have an excuse, and while I concede the conscientiousness and earnest desire and ability of the committee, the margin is too close, and, for one, I am unwilling for the reduction

to be made without giving my humble experience and vote against it.

MR. JENKINS—I want to make one statement, and I will then yield to the gentleman from Talladega.

MR. BROWNE—The gentleman from Talladega does not desire the gentleman to yield.

MR. JENKINS—I am not going to make a speech.

MR. BROWNE—I am satisfied of that.

MR. JENKINS—On yesterday I voted aye on the main proposition, expecting the gentleman from Talladega would insist upon the previous question, and then I expected to move to reconsider the vote on yesterday, which was laid on the table, but the gentleman from Talladega has very generously withdrawn the demand for the previous question, and I have withdrawn my demand for a reconsideration, and the question will come up on the report of the committee.

Mr. Watts and Mr. Browne sought recognition, and a delegate suggested calling for the previous question.

MR. BROWNE—It will not do any good, because I will be asked to withdraw any motion, and, as said by the gentleman from Wilcox, I am so generous that I am bound to withdraw it, and I yield the floor.

MR. WATTS—I had not intended to have anything to say on this subject, but I feel too keenly the responsibility which rests upon me as a delegate upon this floor from the great County of Montgomery.

MR. BROWNE—Will the gentleman allow an interruption for a moment?

MR. WATTS—Yes.

MR. BROWNE—The committee desires that this question be settled, and that we do not consume the whole of next week in the discussion of it, and if the gentleman will yield for a moment, I will make a motion that we remain in session until this matter is disposed of.

To which there were many expressions of dissent.

MR. WHITE—This matter is one of too much importance to be voted on when the attendance is as small as it is today.

MR. O'NEAL (Lauderdale)—In view of the importance of the question, and I think it is the most important—

THE PRESIDENT—The gentleman from Montgomery has the floor.

MR. O'NEAL—I just wanted to make a motion, which, I think, will meet with his approval. In view of the importance of the question, and I think it is the most important that has been considered by the Convention, I suggest that we allow two hours for debate on this question on Monday, and then the previous question will be called. Or that we allow one hour (there were loud calls of "two hours") in which time the previous question will be called. That will give every gentleman in the Convention who desires to speak opportunity.

MR. WATTS—I cannot yield the floor for that motion. I have no objection to the Convention adjourning until Monday, if it sees proper, but I desire to have something to say on this subject, and, while I will be as brief as I can, I cannot finish in the four minutes which it now lacks of the hour of adjournment.

I feel, Mr. President, that I cannot refrain from having something to say when I conceive that this Convention is about to do something which I believe will be to the great injury and damage of this State. I am aware, Mr. President, that the vote which was taken upon yesterday evening indicates that the purpose of the majority of this Convention is to fix the tax rate at 65 cents on the hundred dollars, but, sir, the fact that I stood in the minority has never upon any occasion kept me from insisting upon my position, because, although majorities may for the moment seem right, it is a truism that minorities are almost always right. I have the utmost respect for the gentlemen who compose the Committee on Taxation. I have no doubt, Mr. President, that each and all of them are actuated by the highest motives of patriotism and love for the State of Alabama. I have no doubt, Mr. President, that each of them believe that the course which they have proposed to this Convention and to the people of Alabama, can be pursued with safety to the interests of the State, but, Mr. President, I think that the facts and circumstances are against the report of that Committee, and however much that report may be the majority which may be given by the vote of this Convention to sustain the views of the Committee, I, for one, Mr. President, will still maintain that the action is dangerous, and should not be taken by this Convention.

THE PRESIDENT—Will the gentleman suspend? Leaves of absence are asked for Mr. Willett for today; for Mr. Fitts for Monday.

MR. FITTS—Upon this tax matter I am paired with Mr. Carmichael of Coffee, who will be here on Monday.

MR. MALONE—I would like to have leave of absence for Monday—I may be here, but if not I am paired with a gentleman who will be here.

Leave of absence was requested for Mr. Hood of Etowah for Monday and granted.

THE PRESIDENT—The gentleman from Montgomery will have the floor on Monday.

Thereupon, at 2 o'clock p. m., the Convention adjourned until Monday at 10 o'clock a. m.

CORRECTIONS.

In remarks of Mr. Jones (Wilcox), thirty-second day, strike out in the third and fourth lines in the first sentence the words "as much esteem as," and insert a higher esteem than.

In next to the last paragraph, instead of the words "There is a provision, an additional one and," insert, This is a provision, an additional one, that will enable the Governor to negotiate a larger temporary loan. It is not necessary.

In the last paragraph, strike out the words "while I merely give it as my opinion." Insert, It is my opinion. In the last paragraph, strike out the words, "There may be one man in this Convention of ordinary sense and he can sit down in the room and offer amendments." Insert, Any delegate of ordinary sense can prepare in his room in one night amendments, etc.
